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Meghalaya Protection of Catchment Areas Act, 1990

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MEGHALAYA ACT NO. 4 OF 1992

THE MEGHALAYA PROTECTION OF CATCHMENT AREAS ACT, 1990

(As passed by the Meghalaya Legislative Assembly)

[Received the assent of the Governor on the 27th April, 1992]

(Published in the *Gazette of Meghalaya*, Extra-ordinary Issue, dated 27th April, 1992)

An

Act

To provide for the protection of catchment areas with a view to preserve water sources and to make provisions for matter connected therewith.

WHEREAS, water is so vital to human life and community;

AND, WHEREAS, water sources in the hill areas are dwindling due to denudation of and inconsistent activities in the catchment areas.

AND, WHEREAS, it has become necessary to take regulatory measures to protect and improve the environment and the catchment areas and thereby preserve the water sources therein and augment the yield of water from such sources, streams and rivulets;

BE, it enacted by the Legislature of the State of Meghalaya in Forty-first year of the Republic of India as follows:-

Short title, extent and commencement,	1	(1) This Act may be called the Meghalaya protection of Catchment Areas Act, 1990. (2) It extends to the whole of the State. (3) It shall come into force on such date as Government may by notification appoint.
Definitions	2	In this Act unless there is anything repugnant in the subject or context- (a) 'Act' means the Meghalaya Protection of Catchment Areas Act, 1990; (b) 'Advisory Board' means the Catchment Areas Advisory Board constituted under section 3; (c) 'Catchment area' means as area where springs streams, rivulets and water sources originate and serve as a potential source of perential flow of water;

- (d) 'Critical catchment area' means the area from where springs, streams, rivulets and water heads originate and serve or can potentially serve the water supply system of any village or town or a group of them and the preservation of which is so vital for the life and health of the community;
- (e) 'Competent Authority' means the competent authority appointed under section 12;
- (f) 'Government' means the Government of the State of Meghalaya;
- (g) 'Land owner' means a proprietor or patta holder and includes a person having interest in the land under this Act;

Explanation: 'land' for the purpose of this Act includes trees, buildings and standing crops on it

- (h) 'measures' means the measures specified in section 6;
- (i) 'non-critical catchment area' means a catchment area which is not a critical catchment area;
- (j) 'notification' means notification by Government published in the *Gazette of Meghalaya*;
- (k) 'prescribed' means prescribed by rule made under this Act;
- (l) 'section' means a section of the Act

Constitution of a Catchment Area Advisory Board.

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- (1) There shall be constituted a Board to be known as the Meghalaya Catchment Areas Advisory Board to advise the Government on matter connected with the catchment areas and their protection;
- (2) The Advisory Board shall consist of the following members: namely:-
 - (a) The special Secretary/Secretary, Forest and Environment Department of the Government as Chairman;
 - (b) The Chief Conservation of Forest;
 - (c) The Director of Soil Conservation;
 - (d) The Director of Agriculture;
 - (e) The Chief Public Health Engineer;
 - (f) The Director of Health Services;
 - (g) The Director of Mineral Resources;
 - (h) The Director of Urban Development;
 - (i) The Chief Executive Officer/Chairman of the Municipality concerned;

- (j) The Chief Executive members of the Autonomous District Councils of their representatives on where there are no Chief Executive members by reasons of the functions of the District Councils having been taken over by the Governor of Meghalaya, the respective administrators appointed by him to administer the functions of the Council;
 - (k) Non-official members to be nominated by Government from time to time; and
 - (l) Environment experts to be nominated by Government from time to time.
- (3) The Board may if it thinks necessary co-opt any person or functionality in any of its sitting to resolve any particular issue or issues.

Functions of the Advisory Board

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- (1) The functions of the Advisory Board shall be to advise Government on-
- (a) The declaration of any area as catchment area;
 - (b) The preservation and protection of catchment areas, streams, rivulets, water sources and on measures to be adopted thereof;
 - (c) The appropriate method of management of catchment areas vis-a-vis the activities customarily practiced in such areas;
 - (d) Whether payment of any amount in any form is called for, for the tress and other cultivation but not for the land;
 - (e) The basis, terms and conditions of the agreement to be made with the land owners after negotiation with them for the purpose; and
 - (f) On such other matter connected with the improvement and augmentation of yield of water from sources therein.
- (2) The Advisory Board shall meet as often as may be necessary but not less than twice in a calendar year.

Declaration of an area as catchment area.

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- (1) Government may on the advice of the Advisory Board and on receipt of the consent of land owners in writing in the form to be prescribed for this purpose and whose terms and conditions are binding on the parties concerned by notification, declare an area to be a catchment area.
- (2) A catchment area to be declared under sub-section (2) may be either a critical catchment area or a non-critical catchment area.

Measures for protection of catchment areas. 6

- (1) On the declaration of an area as catchment area under section 5 Government shall have the power to take such measures as it deems necessary or expedient for the purpose of protecting the catchment area.
- (2) In particular and without prejudice to the generality of the provisions of sub-section (1) such measures may include all or any of the following matters, namely-
 - (a) Planting or advising the planting of trees and the taking of other steps to regenerate the forests;
 - (b) Testing of the soil samples;
 - (c) In the case of a critical catchment area, prohibiting therein or within a distance not exceeding two hundred metres from the periphery thereof-
 - (i) The felling of trees, destruction or clearance of groves, bushes or any vegetative cover;
 - (ii) Jhumming or cultivation or use of any insecticide or pesticide;
 - (iii) Quarrying of sand or stone;
 - (iv) Excavation of earth;
 - (v) The carrying of any activity which in the opinion is likely to damage the springs, streams rivulets or water sources in the area.
 - (d) In the case of non-critical catchment areas prohibiting therein or within such distance not exceeding one hundred metres from the periphery thereof any activity of the nature specified in clause (c) without permission of and subject to such conditions as the competent authority may think fit to impose.

Guidelines for the competent authority in dealing with applications 7

- In granting or refusing to grant permission under clause (d) of sub-section (2) section 6 the competent authority shall while dealing with application consider:-
- (a) The nature of activity and the period the applicant for the permission has been carrying on such an activity in the area;
 - (b) Whether the activity is likely to cause damage to the catchment area the springs, streams, rivulets and water sources therein and if so the extent thereof; and
 - (c) Whether by not granting any permission, improvement of the catchment area is more likely to be achieved.

Previous publication of notice and consideration of objections	8	<p>(1) Where Government proposes to take any measure contemplated in sub-section (2) of section 6 it shall publish a previous notice of its intention to do so in a manner as may be prescribed inviting objections from persons likely to be affected by the measures proposed.</p> <p>(2) If after consideration of objections received under sub-section (1) Government decides to take any of the measures contemplated in sub-section (2) of section 6 the same shall be notified in a manner as may be prescribed.</p>
Prohibition of activities in catchment area.	9	On the measures being so notified under sub-section (2) of section 8 no person shall undertake or carry on, in the critical catchment area, any activity which is so prohibited and, in the non-critical catchment area, any activity without the permission of the competent authority or otherwise than in accordance with such permission.
Power of entry to inspect and verify.	10	Any member of the Advisory Board or person empowered by the Government in this behalf shall have the right to enter at any reasonable time, with such assistance as he considers necessary, upon any land declared as catchment area including the extent thereof as referred to in clause (c) and (d) of sub-section (2) of section 6, to inspect and verify the activities, if any, or in connection with any function under this Act or rules made there under and every person claiming to be the owner, occupier or otherwise of the land shall be bound to render all assistance and if he fails to do or if he wilfully delays or obstruct such member or person he shall be guilty of an offence under this Act.
Offences	11	Whoever contravenes the provisions of section 9 or of section 10 shall for the first offence be punishable with fine which may extend to rupees two thousand and, in case of continuing offence, of rupees two hundred for each day the offence continues and for any subsequent offence with imprisonment for a term which may extend to six months with or without fines.
Competent Authority	12	Special Secretary/Secretary Forest and Environment Department shall be the Competent Authority for the purpose of this Act, and Government may by notification appoint any other competent authority for the purpose of this Act.

Complaint	13	No Court shall take cognizance of any offence under this Act except on a complaint made by the competent authority
Bar on suits in civil courts.	14	No suit shall be in any civil court to set aside or modify any order passed by Government or by the competent authority under this Act or the rules framed there under.
Appeal	15	Any person aggrieved by the order of Government to declare an area as a catchment area or to take any measure as contemplated in the Act or by any orders of the competent authority may within forty-five days from the date of notification make an appeal to the Meghalaya Board of Revenue and its order on the appeal shall be final.
Effect on other laws	16	The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.
Power to make rules	17	<p>(1) The Government may by notification make rules to carry out purposes of this Act.</p> <p>(2) Without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, viz.</p> <ul style="list-style-type: none"> (a) The manner and method of functioning of the Advisory Board (b) Fees, if any, to be paid to non-official members and other persons connected with the functions of the Board; (c) The form and manner of application for permission to carry on any activity in non-critical catchment areas; (d) The guidelines for the competent authority to deal with applications for permission, subject to provisions of section 7; (e) The form and manner of notification to be issued under sub-section (2) of section 8 regarding measures to be taken; (f) From and manner of issuing notice for entry upon any land for inspection and verification under section 10; (g) The authorities and nodal agency to implement and monitor the implementation of the Act; (h) Supply or collection of information and data; and (i) Any other matter that is required to be prescribed for the purpose of this Act.