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Jammu and Kashmir Water Supply Act, 1963

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1. X of 1968.
2. X of 1968.

THE JAMMU AND KASHMIR WATER SUPPLY ACT, 1963.

(Act No. XXI of 1963).

[Received the assent of the Sadar-i-Riyasat on 30th March, 1963 and published in Government Gazette dated 30th March, 1963.]

An Act to provide for the regulation of water supply in the State.

Be it enacted by the Jammu and Kashmir State Legislature in the Fourteenth Year of the Republic of India as follows :--

1. *Short title, extent and commencement.*—(1) This Act may be called the Jammu and Kashmir Water Supply Act, 1963.

(2) It shall extend to whole of the State.

(3) It shall come into force on such date and in such areas as the Government may, from time to time, notify.

2. *Definitions.*—In this Act, unless the context otherwise requires :--

(a) "appellate authority" means any officer as the Government may, by notification in the Government Gazette, appoint for the purposes of this Act ;

(b) "local area" means a municipality, a notified area or a town area constituted under any law for the time being in force and includes such other area as the government may, from time to time, notify ;

(c) "local authority" means a municipal council, a notified area committee or a town area committee constituted under any law for the time being in force and includes such other authority as the Government may, from time to time, notify ;

(d) "owner" includes--

(i) every person who is entitled for the time being to receive any rent in respect of the land or building ;

(ii) a manager on behalf of such person ;

(iii) any agent for any such person ;

(iv) an occupier ;

- ¹[(e) "premises" means any building or part of a building or out house but shall not include garden, ground or lawn, if any, appertaining to a building or part of a building ;]
- (f) "prescribed" means prescribed by rules made under this Act ;
- (g) "prescribed authority" means the ²[Executive Engineer, Public Health Engineering Department] or such other officer as the Government may, by notification in the Government Gazette, appoint ;
- (h) "water works" means a lake, pump, reservoir cistern, tank, duct, whether covered or open, sluice, main-pipe, culvert, engine, hydrant conduit and machinery, land, building or thing for supplying or used for supplying water or for protecting sources of water supply and includes such other streams, springs and wells as the Government may, by notification in the Government Gazette, specify.

3. *Provision of water.*--(1) The Government may provide any area with a water supply of wholesome water for public, commercial and domestic purposes.

(2) For the purposes of such supply the Government shall cause to be constructed or maintained such water works as may be necessary and may erect stand pipes or cause to be erected by the local authority sufficient and convenient stand pipes, wells or pumps for the use of inhabitants of the local area.

4. *Supply of water for purposes other than domestic purposes.*--(1) The prescribed authority may, subject to such conditions as may be prescribed, supply water for any purpose other than a domestic purposes, on receiving an application specifying the purposes for which such supply is required and the quantity likely to be consumed in connection therewith and on execution of a deed by the applicant in the prescribed manner :

Provided that the prescribed authority may withdraw such supply at any time if it considers necessary to do so in order to maintain a sufficient supply of water for domestic purposes.

³[x x x]

(2) No person shall, without the written permission of the prescribed authority, use water supplied under this Act for any purpose other than that for which its use is sanctioned.

5. *Supply of water to consumers.*--The prescribed authority may, on application by the owner of any premises in the prescribed manner and on execution of a deed in the prescribed form, arrange for supplying water from

1. Clause (e) of section 2 substituted by Act X of 1988, s.2.

2. Words substituted *ibid.*

3. Second Proviso to sub-section (1) deleted by Act X of 1988.

the main or distribution pipe to him ¹[for domestic purposes] in such quantities as it may be deemed reasonable, and may at any time limit the amount of water to be so supplied whenever it considers it necessary.

Explanation.--A Supply of water for domestic purposes shall not be deemed to include, a supply--

- (a) for animals kept for commercial purposes, or for washing vehicles where such vehicles are kept for sale or hire or where such vehicles are repaired, serviced or overhauled such as workshops, etc. ;
- ²[(b) for any trade, manufacture, business or industry] ;
- (c) For fountain, swimming baths or for any ornamental or mechanical purpose ³[x x x]
- ⁴[(d) for watering of garden, ground or lawn or for irrigation purposes ; and]
- ⁵[(e) for building purposes or for any construction activity ; except where the Government for avoiding any hardship, relax this restriction in respect of any area as may be specified by notification in the Government Gazette.]

6. *Disposal of application.*--The prescribed authority shall dispose of an application for supply of water within one month from its receipt.

7. *Expenses of connections.*--When the request of the applicant for grant of water supply is accepted by the prescribed authority under section 4 and 5, the person applying shall, at his own cost, provide all communication pipes and fittings and cause to be carried out all work of laying and applying such communication pipes and fittings in the premises for which the water supply is sanctioned.

8. *Validity of permission.*--An order permitting water supply under this Act shall be valid for a period of six months from the date of its issue and if the person to whom such permission is granted fails to get his premises fitted with pipes and necessary connection within the said period, the permission shall be deemed to be inoperative.

9. *Notice.*--If at any time supply of water is proposed to be stopped for more than twenty-four hours in any local area or to any premises, the prescribed authority shall, by giving twenty-four hours' notice, inform the local authority and the inhabitants of such local area or the owner of such premises, as the case may be.

1. Substituted by Act X of 1966 for "for domestic purposes or for other purposes."
 2. Clause (b) substituted by Act X of 1988.
 3. Word 'and' deleted *ibid*.
 4. clause (d) substituted *ibid*.
 5. Clause (e) inserted *ibid*.

10. *Power to lay or carry pipes.*--The Government may lay or carry any pipe, for the purposes of arranging or maintaining supply of water, through, across, under or over any road, street or a place laid out as or intended for a road or street under the control of a local authority, and may at all times do all acts and things which may be necessary or expedient for repairing or maintaining such pipes in an effective state for the purpose for which the same may be used :

Provided that such execution of work shall be carried with least annoyance to the public and within a reasonable time :

Provided further that reasonable compensation as determined by the prescribed authority shall be paid to the owner or the local authority, as the case may be, for any damage at the time sustained by him or it and directly occasioned by the carrying out of any such operations :

Provided also that the prescribed authority shall cause not less than fifteen days' notice in writing to be given to the owner or the local authority, as the case may be, before commencing any operations under this section, except in cases, where immediate action is considered necessary, the prescribed authority may by order dispense with the necessity of a notice.

11. *Charges for water supply.*--The Government may, from time to time by notification in the government Gazette, fix the rate or rates of charges on metered basis or on the basis of number of points installed or the dimension of water pipe connected or otherwise, payable by the consumers for supply of water under this Act :

Provided that the rate of charges for supply of water for purposes other than domestic purpose shall not be less than double the rates charges in respect of water supplied for domestic purposes.

12. *Meters.*--(1) The Government may instal meters for the purpose of measuring and recording the quantity of water consumed in any premises or by any person.

(2) The prescribed authority may fix a meter at a convenient point between the premises of the consumer and the distribution main.

13. *Repairs, etc.*--All meters, connections, pipes and other works incidental to the supply of water to any building or land shall be supplied, repaired, extended and altered as may be necessary at the expense of the person requiring supply but shall under the control of the Government.

14. *Separation of premises for water supply.*--In any case in which a service-line from the main line or distribution pipe supplies water to two or

more premises, the prescribed authority may, by written notice, require the owners of such premises to lay down separate service pipes for the separate premises and the expenses of so doing shall be borne by all such owners in such proportion as may be determined by the prescribed authority.

15. *Connection with main not to be made without permission.*--No person shall, without the permission of the prescribed authority, at any time make or cause to be made, any connection with any pipe in contravention of this Act.

16. *Indemnity.*--Notwithstanding anything contained in any other law for the time being in force or any deed executed under this Act or rules made thereunder, the Government shall not be liable to any damage or penalty for discontinuing the supply of water or failure to supply water to any person or to any local area if the cause of such failure is beyond the control of the Government.

17. *Maintenance of supply of water.*--The prescribed authority may, from time to time, regulate the supply of water under this Act for domestic purposes.

18. *Building not to be constructed over water works.*--No building, wall, fence or structure shall be erected on any water works without the written permission of the Government.

19. *Prohibition of certain acts affecting the water works.*--No person shall--

- (a) remove, alter, injure, damage or in any way interfere with the demarcated water works ;
- (b) carry on within the area aforesaid any operation of manufacture, trade or agriculture or do any act whereby injury may arise to any such water works or whereby the water of any such water works may be fouled, polluted or rendered less wholesome ;
- (c) cause or suffer to percolate or drain into or upon any water works anything whereby the water therein may in any way be fouled, polluted or its quantity altered ;
- (d) cause or allow to enter any animal into such water works ;
- (e) throw or put anything into or upon the water in such works ;
- (f) bathe or wash clothes in such water works ; or
- (g) do any other act which the Government may, by notification in the Government Gazette, notify.

¹[19-A. *Prohibition of certain other acts.*--No person shall unlawfully obstruct the flow of, or flush draw off, or divert, or take water from any main

or distribution pipe or any service line, tap work or fitting connected with the supply of water to the premises by using, fitting, installing or connecting therewith any machine or by using any other means.]

20. *Meter reading.*--The prescribed authority may authorise any person to take reading of meters installed in any premises to which water is supplied under this Act.

21. *Obligation of owner to give notice of water of water.*--The owner of every premises in which water supplied under this Act is misused within his knowledge shall be bound to give notice of the same to the prescribed authority.

22. *Power to enter premises.*--(1) Any officer not below the rank of Gazetted Officer authorised in this behalf by the Government ¹[x x x] may enter into any premises for the purpose of inspecting any water installation.

(2) If such officer ¹[x x x] is refused admittance into such premises for the purpose aforesaid or is prevented from making such examination, the prescribed authority may, after giving the consumer an opportunity of being heard, cut off the supply of water to that premises :

Provided that if any such place is an apartment in the actual occupancy of a woman who, according to custom, does not appear in public, such officer shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing, and may then enter the apartment.

23. *Cutting of water supply.*--(1) Notwithstanding anything contained in this Act, the prescribed authority may cut off the connection of any premises to which water is supplied under this Act or may turn off such supply, on any one of the following grounds, namely :--

- (a) if, after the receipt of a written notice from the prescribed authority requiring him to refrain from so doing, the owner of the premises continues to use the water or to permit the same to be used in contravention of this Act or any rule made thereunder ;
- (b) if any pipe, tap, work of fitting connected with the supply of water to the premises be found, on inspection by an officer authorised by the prescribed authority in this behalf to be out of repair to such an extent as to cause so serious a waste or contamination of water that in the opinion of the prescribed authority immediate prevention is necessary ;
or
- (c) if there is any water-pipe situated within the premises to which no tap or other efficient means of turning the water off is attached ; or

¹ Words omitted by Act X of 1978.

- (d) if, by reasons of a leakage in the pipe, or fitting, damage is caused to the public street and immediate prevention is necessary; or
- (e) if the owner of the premises refuses or neglects to pay for a period of [one month] after he has been served with a notice of demand, water charges on account of water consumed in the premises.

[(2) When the water supply has been cut off or turned off under clause (e), of sub-section (1), the prescribed authority may reconnect the supply of water on payment of such charges and on such terms and conditions as may be prescribed]

24. *Injuring meter or fitting.*—No person shall wilfully injure or suffer to be injured any meter or any of the fitting of any meter.

25. *Fraud in respect of meters.*—(1) No person shall fraudulently--

- (a) alter the index to any meter, or prevent any meter from recording the actual quantity of water supplied; or
- (b) abstract or use water before it has been recorded by a meter set up for the purpose of recording the same.

Where there has been any such alteration, prevention, abstraction or use, the existence of artificial means under the control of the consumer for causing any such alteration, prevention, abstraction or use, shall be evidence of the consumer having fraudulently effected the same.

26. *Water for extinguishing fire.*—Use of water shall be free of charge for extinguishing fire.

27. *Appeals.*—(1) Subject to the provision of sub-section (2), an appeal shall lie from every order of the prescribed authority under this Act to the appellate authority.

(2) Every such appeal shall be preferred within ninety days from the date of order:

Provided that the appellate authority may entertain an appeal after the expiry of the said period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing it in time.

(3) The appellant shall have a right to appear by a counsel and the prescribed authority may be represented by such officer or person as the Government may appoint.

1. Words substitute by Act X of 1988.

2. Sub-section (2) of section 23 substituted *ibid*.

(4) On receipt of any such appeal, the appellate authority shall, after giving the appellant a reasonable opportunity of being heard and after making such enquiry as it deems proper, dispose of the appeal.

(5) The proceedings before the appellate authority shall be completed within four months of its institution.

28. *Revision.*--The Minister-in-charge, Water Works Department may at any time call for the record of any case pending before or disposed of by any authority under this Act and if in any such case it shall appear to the Minister that any order passed or proceeding taken should be modified, annulled or reversed, he may pass such order thereon as he may deem fit and such order shall be final and shall not be called in question in any Court :

Provided that no order under this section shall be made to the prejudice of the person unless he has had an opportunity of being heard either personally or by a duly authorised agent.

[29. *Penalties.*--(1) Whoever contravenes any of the provisions of sections 4, 5, 15, 18, 19, 24, and 25 of this Act or any rule or fails to comply with any notice or order issued under this Act shall, on conviction, be punished with imprisonment for a term which may extend to three months and with fine which shall not be less than one thousand rupees but may extend to five thousand rupees. When such contravention or failure continues after the conviction, with a further fine which shall not be less than one hundred rupees for every day.

(2) Whoever contravenes the provisions of section 19-A of this Act shall be punished with imprisonment for a term which may extend to six months and with fine which may extend to five thousand rupees but shall not be less than three thousand rupees]

[29-A. *Offence to be triable summarily.*--Notwithstanding anything contained in the Code of Criminal Procedure, Samvat 1989 or any other law for the time being in force, all offences punishable under this Act shall be triable summarily by a Magistrate of the First Class.]

30. *Sanction of prosecution.*--No prosecution shall be instituted under this Act without the permission in writing of the prescribed authority.

31. *Delegation.*--The Government may, by notification in the Government Gazette, direct that any power exercisable by it under this Act or rule made thereunder shall in relation to such matters and subject to such conditions as maybe specified in the directions, be exercisable also by such officer or authority subordinate to the Government as may be specified in the notification.

32. *Protection of action taken under this Act.*—No suit, prosecution or other proceeding shall lie against any person for anything done or intended to be done under this Act in good faith.

33. *Power to make rules.*—(1) The Government may, after previous publication, make rules for carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) regulating the size and nature of mains, pipes, taps and other fittings whether within or outside any premises ;
- (b) the prevention of injury or contamination to sources and means of water supply and appliances for the distribution of water ;
- (c) ¹[x x x]
- (d) the use, maintenance and inspection of meters and all meters in connection with the use of water and turning on and turning off and preventing waste of water ;
- ²(e) the area of lawn or garden other than area under clause (d) of Explanation to section 5.]

34. *Repeal and Saving.*—(1) Chapter XIII of the Jammu and Kashmir Municipality Act, Svt. 2008, the Water Works Rules and all other rules, orders and notifications regarding the supply of water in the State or any part thereof are hereby repealed.

(2) Notwithstanding such repeal of anything contained in any other law for the time being in force, anything done, any water connection sanctioned, charges recovered, order issued, water works constructed or proceedings taken before the commencement of this Act shall, as far as may be, deemed to have been done under this Act and shall be valid and good in law.

1. Clause (c) deleted by Act X of 1988
 2. Clause (e) added by Act X of 1968.