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Sikkim Water Supply and Water Tax Act, 1986

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SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY

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GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

NOTIFICATION

No. 8/LD/86 Dated the 8th September, 1986.

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on the 6th day of September, 1986, is hereby published for general information:-

THE SIKKIM WATER SUPPLY AND WATER TAX ACT, 1986.
(ACT NO. 8 OF 1986)

AN
ACT

to provide for regulation of the supply of water, realisation of charges for supply of water and tax on water and for matters connected therewith or incidental thereto.

Be it enacted by the Legislature of Sikkim in the Thirty-seventh Year of the Republic of India as follows:-

Short title, extent and commencement

1. (1) This Act may be called the Sikkim Water Supply and Water Tax Act 1986
   (2) It extends to the whole of Sikkim.
   (3) It shall come into force on such date, as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different areas and for different provisions of this Act.

Definations.

2. In this Act, unless the context otherwise requires,-

   (i) 'area' means the area declared by Government by notification to be an area for the purposes of this Act;

   (ii) 'Government main' means the water pipe lines owned and maintained by the Government;

   (iii) 'Consumer's main' means water pipe lines which connect Government main with the consumer's premises and includes service pipe and internal plumbing lines of the consumer's premises;

   (iv) 'Competent authority' means the Chief Engineer-cum-Secretary,

   (v) Buildings, Public Health Engineering and Housing Department of the Government or any other officer authorised by him in this behalf;

(v) 'Consumer' means any person getting the benefit of any water supply from the Government;

(vi) 'notification' means a notification published in the Official Gazette;

(vii) 'notified order' means any order published in the Official Gazette;

(viii) 'occupier' in relation to any premises, means —

(a) any person in occupation of the premises or part thereof paying or liable to pay rent to the owner in respect of such premises or part of the premises;

(b) an owner who is in occupation of the premises;

(c) a tenant of the premises who is exempted from payment of rent;

(d) a licensee who is in occupation of the premises; and

(e) any person who is liable to pay damages to the owner in respect of use and occupation of the premises;

(ix) 'owner' in relation to any premises, means the person who receives the rent of the said premises or who would be entitled to receive the rent if the premises were let or leased and includes-

(a) an agent or trustee, who receives such rent on behalf of owner,

(b) an agent or trustee who receives the rent of, or is entrusted with, the management of any premises devoted to religious or charitable purposes;

(c) a receiver or manager appointed by any court of competent jurisdiction to have the charge of, or to exercise the rights of an owner in respect of, the Said premises; and

(d) a mortgagee in-possession;

(x) 'prescribed' means prescribed by the rules made under this Act;

(xi) 'connection point' means a point where 'Government main' is joined with the 'consumer's main';

(xii) 'water works' means a lake, pump, reservoir, cistern, tank, duct, whether covered or open sluice mains, pipes, culverts, engine, hydrant, machinery, land, building or thing for supplying or used for supplying water and includes such other streams, springs, and wells as the Government may, by notification, specify;

(xiii) 'service line' means the portion of consumer main starting from the point where consumer main joins the 'Government main' upto the point in the consumer main where water meter is installed.

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

(2) For the purpose of such supply the Government shall cause to be constructed or maintained such water works as may be necessary and may erect stand pipes, wells or pumps for the use by public of the area,

Explanation:— The supply of water for domestic purposes under this Act means supply for any purpose except the following, namely:-

(a) for any trade, manufacture or business,

(b) for gardens or for purposes of irrigation,

(c) for building purposes including construction of streets,

(d) for fountains, swimming pools, public bath or tanks any ornamental or mechanical purposes,

(e) for animals, where they are kept for sale or hire or for the sale of their produce,
(f) for the consumption and use at a restaurant or by inmates of a hotel, boarding house or residential club,
(g) for the consumption and use by persons resorting the theatres and cinemas,
(h) for watering streets, or
(i) for washing vehicles where they are kept for sale or hire.

Water supply for domestic purposes not to be used for non-domestic pyrposes.

4. No person shall, use or allow to be used water supply sanctioned for use for domestic purposes or for any other purpose except with the previo approval of the competent authority.

Supply of water for purposes other than domestic purposes.

5. (1) An application for supply of water shall be made in the prescribed form and shall be addressed to the competent authority and shall specify the purpose for which supply of water is required and the quantity of water for such purpose.

(2) The competent authority may, on receipt of an application, allow applicant to use water for purposes other than domestic purposes on execution of a deed by the applicant in the prescribed form and manner:

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

(3) The supply of water for the purposes of watering lawns and gardens shall be made on meter basis or in such other manner and on payment of such charges as the competent authority may determine.

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

Prohibition of wastage of water.

6. (I) No owner or occupier of any premises to which water is supplied by the Government shall cause or suffer any water to be wasted, of cause or suffer the service pipe, tap, other fitting or work connected therewith to remain out or repair so as to cause wastage of water.

(2) Where the compietent authority has reason to believe that as a result of defect in the service pipe, tap, other fitting or work connected therewith water is being wasted, it may, by a written notice, require the consumer to repair and make good the defect within such time as may be specified in such notice.

(3) If such repair is not carried out within the time specified in the notice referred to in sub-section (2), the competent authority may, without prejudice to any action which may be taken against the consumer under any other provisions of this Act, cause such repair to be made and recover the cost of such repair from the consumer.

Power to cut off water supply.

7. (1) The competent authority may cut off the water supply from any premises-

(a) if any fee, rental, cost of water or any charge or other sum due under this Act is not paid by the consumer within the period of fifteen days after receipt of a bill for the same; or

(b) after the receipt of a written notice from the competent authority requiring him to refrain from so doing, the consumer continues to use the water or permits the same to be used in contravention of the provisions of this Act or any rules made thereunder; or

(c) if the consumer damages or causes to be damaged the water meter or any connection pipe or ferrules; or

(d) if the consumer refuses to admit any officer, or his employee, of the Government duly authorized by the competent authority in this behalf into the premises which he proposes to enter for the

purposes of executing any work or placing or removing any apparatus or of making any examination or inquiry in connection with the water supply or prevents any such officer or his employee, from executing any work or placing or removing any apparatus or making such other examination or inquiry; or

(e) if the service pipe or any tap or other fitting or work connected therewith is found on examination by an officer of the Government duly authorised in this behalf or by his employee to be out of repair to such an extent as to cause wastage or contamination of water and immediate prevention thereof is necessary; or

(f) if the consumer causes or allows to be caused the service pipe or any tap or other fittings or work connected therewith to be placed, removed, repaired or otherwise interferred with in contravention of the provisions of this Act or the rules made thereunder; or

(g) if by reason of leakage in the service pipe or any lap or other fitting or work, damage is caused to a public street or any private or public property and immediate prevention thereof is necessary.

(2) No action taken under, or in pursuance of, this section shall relieve a person from any penalty or liability which he may have otherwise incurred under the provisions of this Act or the rules made thereunder.

(3) The competent authority may order reconnection of supply of water disconnected under sub-section (1) on payment of such charges and on such terms and conditions as may be prescribed.

Supply of Water to Consumer.

8. The competent authority may, on receipt of an application by the owner of any premises in the prescribed form and manner and on execution of a deed in the prescribed form, arrange for supply of water from the Government main or distribution pipe to him for domestic purposes or for other purposes in such quantities as it may deem reasonable, and may at any time limit the amount of water to be so supplied whenever it considers necessary so to do.

Disposal of application.

9. The competent authority shall ordinarily dispose of an application for supply of water within one month from the date of its receipt and it shall record reasons for not being able to dispose of an application within one month and communicate the same to the applicant.

Expenses of connections.

10. (1) When the request of the applicant for grant of water supply is accepted by the competent authority under section 5 or section 8, the person so applying shall, at his own cost, provide all service pipe and fittings and cause to be carried out all work of laying and applying such service pipe and fitting in the premises for which the water supply is sanctioned:

Provided that the competent authority may-order to be undertaken the work of laying of service pipe, at the consumer's cost in certain areas where the competent authority for reasons to be recorded in writings deems it necessary so to do.

(2) The charges for giving initial connection shall be not less than one hundred rupees and not more than five hundred rupees as may be notified.

Validaty of Premission.

11. (1) The sanction permitting supply of water under this Act shall be valid for a period of six months from the date of its issue and if the person in whose name such sanction is issued fails to get his premises fitted with pipes and necessary connections within the said period of six months or such extended time as may be allowed by the competent authority, the permission shall be deemed to be inoperative:

Provided that the sanction which may become inoperative may be revalidated for a further period not exceeding threemonths on payment of a fee of rupees twenty five.

Notice of stoppage of water supply.

12. 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 competent authority may by giving twenty four hours' oral or written notice, inform the local authority and the inhabitants of such local area or the owner of such premises,as the case may be.

power to lay or carry pipes

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

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

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

Provided also that the competent authority shall cause not less than seven days' notice in writing to be given to the owner or the local authority, as the case may be, before commencing of any operations under this section except in cases where immediate action is considered necessary, then, the comptent authority may, by order and for reasons to be recorded in writing, dispense with the notice.

Charges for water supply.

14. The Government may, from time to time, by notification, fix the rate or rates of charges on metered basis or on the basis of number of taps installed or on the dimension of the service pipe payable by the consumer for supply of water under this Act and different rate or rates may be fixed for different areas and for different consumers :

Provided that the rate of charges for supply of water for purposes other than domestic purpose shall not be less than double the rates charged in respect of water supplied for domestic purposes as may by prescribed

Power to order fixing of meters or disconnection of the supply of water.

15. (1) The competent authority may, from time to time,by notification, order,-

(a) the fixing, within such time as may be specified in the said order by the consumer at their own cost, of meters on all pipe connections (whether new or existing unmetered connections), within the whole of the area or a part thereof,

(b) the disconnections of the water supply if any consumer fail to comply with the said order; or

(2) Where any person fails to comply with the order issued under subsection (1), the competent authority may order installation of meters for the purpose of measuring and recording the quantity of water consumed in any premises or by any person at the cost of the consumer who will deposit such amount as the cost as may be fixed by the Department or may pay such fee for installation of a meter as may be prescribed.

(3) The competent authority may order fixing of a meter at a convenient point between the premises of the consumer and the consumer's main.

Repairs, etc.

16. 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 expenses of the person requiring such supply but shall remain under the control of the Government.

Separation of premises for water Supply.

17. In any case in which a service pipe from the Government main supplies, water to two Or more premises, the competent authority may, by written notice, require the owners of such premises to lay down separate service pipes for their premises and the expenses of so doing shall be borne by all such owners in such proportion as may be determined by the competent authority.

Connection with main not to be made Without permission.

18. No person shall, without the permission of the competent authority make or cause to be made any connection with the Government main.

Indemnity.

19. 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 or its officers and employees shall not be liable for any damage to, or penalty for, discontinuing the supply of water or failure to supply water to any person or to any area if the cause of such failure *is* beyond the control of the Government, its officers and employees.

Maintatenance of Supply of water.

20. The competent authority may, from time to time, regulate the supply of water under this Act for domestic purposes.

Building not to be constructed over water works.

21. No building, wall, fence or structure of any kind shall be erected on any water works without the written permission of the competent authority.

Notified water sources and water Main routes.

22. (1) The Government may, from time to time, identify and declare certain water sheds or water sources or both or water main routes as 'notified water sheds or water sources' or' 'notified water main routes'.

(2) Such 'notified water sheds or water sources' or 'notified Water main routes' shall be thereupon be under the administrative control of the buildings, PHE & Housing Department.

(3) Any use of such 'notified water sheds or water sources ' water main routes' by the public, local authority or any other agency shall require prior approval of the Competent Authority.

(4) The Government may impose tax for use of water from the 'notified' water sheds or water sources' or water main routes by the public, local authority or any other agency and the charges shall not be less than seventy per cent of the charges for supply of water for domestic purposes, as may be prescribed.

Explanation.— For the purposes of this section-

(a) 'water shed' means an area surrounding any spring, stream or,pond (whether formed naturally or otherwise) Which conserves and sustains a source of water the quantity whereof is likely to be varied by erosion of soil, falling of trees or disturbances by cattle grazing or human settlement and includes the gathering ground of a river system;

(b) 'water-route' means the strip of land along which the pipe line for supply of water is laid and includes the land adjoining such pipe line which, if disturbed by quarrying, digging, felling of trees, cattle grazing or human settlement, is likely to disturb the stability of the pipe line:

(c) 'Water source' means any spring, stream or pond (whether formed naturally or otherwise) from Where water is tapped for domestic or other purposes.

Prohibition of cetain acts affecting the water works.

23. 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 be caused or is likely to be caused to any such water works or whereby the water of any such water works may be fouled, polluted or tender such water to be 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 quality altered;
(d) cause or allow to enter any animal into such water works;
(e) bathe or wash clothes in such water works;
(f) throw or put anything into or upon the water in such water works; or
(g) do any other act which the Government may, by notification, prohibit.

Meter reading.

24 .(1) The competent authority may authorise any person to take reading of meters installed in any premises to which water is supplied under this Act and make an entry thereof in a register as may be prescribed.

(2) Every entry in the register maintained under sub-section (1) shall be prima facie evidence of the quantity of water consumed.

Obligation of owner to give notice of waste of water.

25. (1) The owner of any premises to which water is made under the provision of this Act and where such water is being misused or wasted within his knowledge shall forthwith give notice in writing to the competent authority of such misuse or wastage.

Power to enter premises.

26 .(1) Any officer not below the rank of a Junior Engineer authorised in this behalf by the competent authority may, between 9 a.m. and 5 p.m. enter into any premises for the purpose of inspecting any water installation.

(2) If such officer is, at any such time, refused admittance into such premises for the purpose specified in sub-section (1) or is prevented from making such inspection the competent 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 premises is an apartment in the actual occupancy of a woman who, according to the custom does not if 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.

Injuring meter fittings.

27. (1) No person shall wilfully injure or suffer to be injured any meter or any of the fittings of any meter.

Fraud in respect of meters.

(1) No person shall fraudulently—

(a) alter the index of 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.

(2) 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 the evidence of the consumer having fraudulently effected the same.

Water for extinguishing fire.

Use of water shall be free of charge for extinguishing fire.

Appeal.

(1) Any person aggrieved by an order made by the officer authorized by the Chief Engineer-Cum-Secretary, Buildings, PHE & Housing Department may prefer an appeal to the Chief Engineer-Cum Secretary, Buildings, PHE & Housing Department and where such order is made by the Chief Engineer-Cum-Secretary, Buildings, PHE & Housing Department to the Government within thirty days from the date of the communication to him of such order:

Provided that the authority before whom ah appeal is filed may entertain the appeal after the expiry of thirty days if it is satisfiled that the appellant was prevented by sufficient cause from filiing the appeal within the prescribed period of thirty days.

(2) The appellant authority may, after giving the parties an opportunity of being heard, confirm, set aside or modify the order under appeal.

Revison.

31. The Minister-in-Charge of Water Supply Department may, either on his own motion or upon an application made to him, at any time, for reasons to be recorded in writing, call for the record of any case disposed of by any authority under this Act and if in such case it appears to the Minister that any order passed should be modified, annulled or reversed, he may pass such order as he may deem fit not inconsistent with the provisions of this Act or the rules made thereunder and such order shall be final and shall not be called in question in any court:

Provided that nothing in this section shall apply to cases where an appeal lies unless the time for preferring an appeal has expired.

Liability of payment of water Charges.

32. The rate or rates of charges for supply of water mentioned in section 14 shall be payable by the owner or occupier of the premises as may be decided by the competent authority.

Levy of water Tax.

33. For the purposes of this Act, the Government shall levy, on premises situated in an area where water supply is made by it, a tax at such rate not being less than two per cent and not more than ten per cent of the assessed annual value of the premises as the Government may, from time to time, by notification, specify and different rates of tax may be specified for different areas after taking into consideration of the economic condition of the people residing in that area:

Provided that no such tax shall be levied and collected in any area where such tax is already being collected by any local authority, or any other authority under the provisions of Sikkim laws.

Assessment of annual value.

34 (1) For the purposes of section 33, annual value means five per cent of the market value of the premises:

Provided that the annual value in the case of premises occupied by the owner himself shall be deemed to be twenty per-cent less than the annual value otherwise determined under this section.

(2) The annual value of premises for the purpose of levy of water tax shall be assessed by such officer or authority as the competent authority may, by general or special order, direct,

(3) Until an assessment of the annual value of premises in any area is made by an officer or authority referred to in sub-section (2) the annual value of the premises in that area as assessed by the local authority for the put poses of levy of house tax shall be deemed to be the annual of the premises for the purposes of this Act as well.

(4) Any person aggrieved by an order of assessment of tie annual value made by an officer or authority under sub-section (2) may, within thirty days from the date of the order, prefer an appeal to such authority as may be prescribed (hereinafter referred to as the prescribed authority) in such manner as may be prescribed.

(5) The prescribed authority may stay the enforcement of the order under appeal for such period and on such terms as it may deem fit.

(6) The prescribed authority may after giving to the parties an opportunity of being heard, confirm, set aside or modify the order under appeal.

(7) The decision of the prescribed authority under sub-section (6) shall be final and binding on the parties.

35. The competent authority may charge such fees for connection, disconnection, re-connection of water supply or testing or supervision or for any other service rendered or work executed or supervised as may be prescribed. *Fees.*

36. The Government may, by notified order and for reasons to be recorded in writing, exempt any premises or land situated in any area from payment of water tax or remit any portion thereof for such period as may be recorded in the said order. *Exemption.*

37. (1) The competent authority may by notice require the owner or occupier of the premises to pay within fifteen days from the date of receipt of notice the charges on account due and recoverable from such owner or occupier. *Manner ofrealisation °f water charge and water tax.*

(2) Where the owner or occupier of the premises fails to pay the amount due from him within the period specified in the notice issued under sub-section (1), the competent authority may prepare a certificate indicating the amounts due from such owner or occupier and send the same to the Judicial Magistrate of the First Class of the area in which the premises or land is situated.

(3) The Judicial Magistrate to whom the certificate is sent shall realize the amount specified in such certificate as if it were a fine imposed by such Magistrate and remit the same to the competent authority.

38. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was responsible to the company for the conduct of its business as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly : *Offences by Companies.*

Provided that, nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part, of any director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation- For the purpose of this section —

(a) 'company' means any body corporate and includes a firm or other association of individuals; and
(b) 'director' in relation to a firm, means a partner in the firm.

39. No prosecution shall be instituted under this Act without the permission in writing of the Government. *Sanction for prosecution.*

40. (1) The Government may, by notification, direct that any power exercisable by it under this Act or rules made thereunder shall, in relation to such matters and subject to such conditions as may be specified in the notification, be exercisable also by such officer or authority subordinate to as may be specified in the said notification, *Delegation.*

(2) The competent authority may, in the like manner, delegate its powers except the power conferred upon it under section 30 to any officer subordinate to him.

41. Whoever contravenes the provisions of this Act or rules made thereunder shall, on conviction, be punishable with imprisonment for a term which may extend to two years or with fine which may extend to two thousand rupees or with both. *Penalties.*

42. 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. ***Protection** taken under*

Power to make rules.

43. (1) The Government may, by notification, make rules for giving effect to the provisions of this Act.

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

(a) regulating the size and nature of mains, pipes, trips and other fittings whether within or outside any premises;

(b) the prevention of injury or contamination to sources and mains of water supply and appliances for the distribution of water;

(c) the manner in which connections with water works, mains, etc. may be constructed, altered or maintained;

(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;

(e) the area of a lawn or garden other than the area under clause (d) of Explanation to section 3;

(f) form and manner of filing an appeal;

(g) fees for connection, disconnection, reconnection and other services rendered to the consumer;

(h) any other matter that is required to be or may be prescribed.

Repeal and savings.

44. On and from the commencement of this Act, all rules, regulations, notifications, or any other Sikkim laws relating to the supply of water or realisation of charges and tax on water, shall stand repealed save as things done or omitted to be done.

B.R. PRADHAN,

Secretary to the Govt, of Sikkim,
Law Department.
(File No. 16(186)/LD/86.)

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