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KERALA GAZETTE

കേരള ഗസറ്റ്

EXTRAORDINARY

അസാധാരണം

PUBLISHED BY AUTHORITY

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GOVERNMENT OF KERALA

Law (Legislation - B) Department

NOTIFICATION

No. 1977/Law. B1/2008/Law. Dated, Thiruvananthapuram, 5th January, 2009
15th Pousha, 1930.

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the Governor on the 3rd day of January, 2009.

By order of the Governor,

K. JOHN BRITTO
Special Secretary (Law).

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ACT 8 OF 2009

THE KERALA WATER SUPPLY AND SEWERAGE
(AMENDMENT) ACT, 2008

An Act further to amend the Kerala Water Supply and Sewerage Act, 1986.

Preamble.—WHEREAS, it is expedient further to amend the Kerala Water Supply and Sewerage Act, 1986 for the purposes hereinafter appearing;

BE it enacted in the Fifty-ninth year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Water Supply and Sewerage (Amendment) Act, 2008.

(2) It shall be deemed to have come into force on the 29th day of January, 2008.

2. *Amendment of section 2.*—In section 2 of the Kerala Water Supply and Sewerage Act, 1986 (14 of 1986) (hereinafter referred to as the principal Act),—

(i) for clause (vii), the following clause shall be substituted, namely:—

“(vii) “domestic sewage” means waste water from any house or residence arising out of personal and normal human activities such as drinking, bathing, washing and cooking;”;

(ii) after clause (x), the following clause shall be inserted, namely:—

“(xa) “flat” means buildings/independant villas having ten or more dwelling units or buildings having a total plinth area of one thousand square metres or more in a premise;”;

“(xb) “licensed plumber” means a plumber who is provided with a license^e by the Authority to execute works relating to any water connection or domestic or non-domestic sewer connected to sewerage of the Authority, under sections 43 and 47B;”;

(iii) after clause (xv), the following clauses shall be inserted, namely:—

“(xva) “multistoried building” means buildings in a premise having five or more units or having a total plinth area of five hundred square metres or more used for non-domestic activities with or without any dwelling unit;

(xv b) “non-domestic sewage” means sewage other than domestic sewage and includes industrial sewage;”;

(iv) in clause (xxxvi), the words “and units for manufacturing, marketing and storing of packaged drinking water, mineral water, aerated water or any other processed water or of goods or articles necessary for the water supply,” shall be added at the end.

3. *Amendment of section 4.*—In section 4 of the principal Act,—

(i) for clause (c), the following clause shall be substituted, namely:—

“(c) the Secretary to Government in-charge of Water Resources Department, *ex-officio*;”;

(ii) for clause (e), the following clause shall be substituted, namely:—

“(e) the Secretary to Government in-charge of Local Self Government Department *ex-officio*;”.

4. *Amendment of section 14.*—In section 14 of the principal Act,—

(i) in clause (x), the word “and” at the end shall be omitted;

(ii) after clause (x), the following clauses shall be inserted, namely:—

“(xa) making provision for manufacture and marketing of packaged drinking water, mineral water, aerated water or any other processed water and of goods or articles necessary for water supply and sewerage;

(xb) any other matter supplemental, incidental or consequential to any of the above functions of the Authority; and”.

5. *Amendment of section 15.*—In sub-section (2) of section 15 of the principal Act, after clause (viii), the following clause shall be inserted, namely:—

“(viii a) to invest funds, with the previous approval of the Government, in any public sector undertakings or public sector companies that are involved in the production of goods or articles utilized for the functions of the Authority;”.

6. *Insertion of new section 15A.*—After section 15 of the principal Act, the following section shall be inserted, namely:—

“15A. *Manufacture and marketing of packaged drinking water, mineral water etc.*—Notwithstanding anything contained in any other provisions of this Act, the Authority shall have the power to manufacture, market and sell packaged drinking water, mineral water, aerated water or any other processed water and goods or articles necessary for the water supply and sewerage in such manner as may be provided by regulations.”.

7. *Amendment of section 33.*—For section 33 of the principal Act, the following section shall be substituted, namely:—

“33. *Meter rent.*—The Authority may charge rent for the meters provided by the Authority at such rates as may be provided by regulations.”

8. *Amendment of section 38.*—In section 38 of the principal Act,—

(i) for sub-sections (1), (2) and (3) the following sub-section shall be substituted, namely:—

“(1) The Authority shall on an application made to it by the owner of any premises or by the occupier with the consent in writing of the owner thereof, grant supply of water for domestic purposes on such terms and conditions as may be provided by regulations.”;

(ii) sub-sections (4), (5) and (6) shall be re-numbered as sub-sections (2), (3) and (4) respectively;

(iii) after sub-section (4) so re-numbered, the following sub-section shall be inserted, namely:—

“(5) The ownership and control over the pipe line up to the meter point shall vest with the Authority even though the cost of any connection or part thereof has been borne by the applicant.”

9. *Insertion of new sections 38A and 38B.*—After section 38 of the principal Act, the following sections shall be inserted, namely:—

“38A. *Water supply to flats and multi-storied buildings.*—(1) Notwithstanding anything contained in this Act, and subject to sub-section (2), the Authority may supply water through cisterns, tanks, sumps and ground level reservoirs to multi-storied buildings and flats, subject to such terms and conditions, as may be provided by regulations.

(2) The supply of water referred to in sub-section (1) shall not be made from a distribution main having diameter of 150 mm. or less.

38B. *Control over water supply connections.*—All water connections, irrespective of ownership shall be under the control of the Authority and shall be maintained properly and altered or repaired only in such manner as may be provided by regulations.”

10. *Amendment of section 40.*—In section 40 of the principal Act, after sub-section (4a), the following sub-sections shall be inserted, namely:—

“(5) The water from any public hydrant shall not be used for any non-domestic purpose.

(6) No external instruments or pipes or hose or other devices shall be connected to any public hydrants for tapping water.

(7) No cleaning or washing of any animal, vehicle, cloth, utensil or any other materials shall be done under or near any public hydrants.”

11. *Insertion of new section 40A.*—After section 40 of the principal Act, the following section shall be inserted, namely:—

“40A. *Punishment for illegal use of public hydrants.*—Any person who unlawfully draw off or take or use water from a public hydrant shall be punishable with fine extending to three thousand rupees or with imprisonment for a term not exceeding one month or with both.”

12. *Amendment of section 42.*—For section 42 of the principal Act, the following sections shall be substituted, namely:—

“42. *Provision of water meters.*—(1) The consumer shall provide a water meter and attach the same to the service pipes in his premises connected with the water works of the Authority after obtaining approval from the Authority.

(2) The consumer shall repair or replace water meters installed in his premises, at his own cost whenever required to do so by the Authority.

(3) Notwithstanding anything contained in sub-section (1), the Authority shall have the power to install its own water meters to any connection wherever the Authority deems fit.

(4) The provision of water meters and the transfer of connection thereto, the use, maintenance and testing of such meters and the expense of installation thereof and their rents and the furnishing of security, if any, in connection therewith shall be regulated by regulations.

42A. *Presumption as to correctness of meters.*—Whenever water is supplied under this Act through a meter, it shall be presumed that the quantity indicated by the meter has been consumed, until the contrary is proved.”

13. *Amendment of section 43.*—For section 43 of the principal Act, the following section shall be substituted, namely:—

“43. *Works relating to water connection to be done by licensed plumbers and as per specifications etc.*—(1) No person other than a plumber licensed by the Authority or person duly authorized by it shall execute any work relating to a water connection, not being a work of a trivial nature and no person shall permit any such work to be executed by a person other than such a person.

(2) Every person who employs a licensed plumber to execute any such work shall when so required furnish the details of work executed or to be executed in such manner as may be provided by regulations.

(3) No licensed plumber shall contravene any of the specifications or standards relating to execution of such works provided in the regulation or specified by the Authority or execute such works using sub-standard materials, appliances or fittings.

(4) Where any such work is executed in contravention of sub-sections (1), (2) and (3), such connection is liable to be refused or disconnected.

(5) The Authority may, from time to time, fix the charges to be paid to licensed plumbers for each such kind of work through regulations.

(6) No licensed plumber shall, demand or receive charge for any such work in excess of the rate fixed by the Authority under sub-section (5).

(7) If any licensed plumber executes any such works in contravention of the provisions of this section or the regulations, his license shall be suspended or cancelled irrespective of the fact whether any criminal proceedings is taken against him or not.

(8) Complaint against any licensed plumber of the Authority, regarding violation of the provisions of this Act, shall be filed before the Executive Engineer, within thirty days, from the date of notice of the violation.

(9) The Executive Engineer after making such enquiry as he deems fit and giving the parties concerned a reasonable opportunity of being heard shall dispose of the complaint referred to in sub-section (8) within thirty days of receipt of its date of receipt.

(10) Any person aggrieved by the orders of the Executive Engineer, under the foregoing sub-section may appeal to the Superintending Engineer, having jurisdiction over the area and he shall dispose of the appeal after affording a reasonable opportunity of being heard to the persons concerned. His decision thereon shall be final."

14. *Insertion of new section 43A.*—After section 43 of the principal Act, the following section shall be inserted, namely:—

"43A. *Offences by licensed Plumbers.*—Whoever, being a licensed plumber, contravenes sub-section (3) or sub-section (6) of section 43, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees or with both."

15. *Insertion of new section 45A.*—After section 45 of the principal Act, the following section shall be inserted, namely:—

"45A. *Non-liability of the Authority to pay penalty or damages.*—The Authority shall not be liable in any way for any loss or damage or sufferings caused to any person by the cutting off the supply of water due to drought or accidents or works relating to re-laying or repairing of any water works or other unavoidable causes."

16. *Amendment of section 46.*—In clause (c) of sub-section (1) of section 46 of the principal Act, after the words "water is supplied" the words "with or without any mechanical or other device" shall be inserted.

17. *Insertion of new sections 46A, 46B, 46C, 46D and 46E.*—After section 46 of the principal Act, the following sections shall be inserted, namely:—

"46A. *Prohibition of construction of buildings etc., over land, pipes etc.*—(1) No person shall without permission of the Authority construct any private street, building, wall, fence or other structure over any land or pipes or mains belonging to the Authority.

(2) If any private street is constructed or any building, wall, fence or other structure is erected on any land or pipes or mains belonging to the Authority, the Authority may remove or cause to remove the same as may be provided in the regulations.

(3) The expenses incurred by the Authority in so doing shall be paid by the owner of the private street or of the building, fence, wall or other structure or as the case may be, by the person offending and shall be recoverable as arrears of land revenue.

46B. *Punishment for tapping or making illegal connection.*—Whoever, with intent to draw water, taps or makes or causes to be made any connection with the mains or service pipes of the authority without obtaining prior permission of the Authority shall be punishable,—

(i) on first conviction with fine which may extend to ten thousand rupees and in the event of a second or subsequent conviction with imprisonment for a term not exceeding six months and with fine which may extend to twenty-five thousand rupees, if the water is intended to be used for domestic purpose;

(ii) on first conviction with fine which may extend to fifty thousand rupees and in the event of a second or subsequent conviction imprisonment for a term not exceeding two years and with fine which may extend to one lakh rupees, if the water is intended to be used for non-domestic purpose.

46C. *Punishment for certain other illegal activities.*—Whoever, being a consumer, with an intention to get unlawful gain, damages or tampers a water meter, or uses any device or method which interferes with the accurate and proper metering of the water supply, shall be punishable,—

(i) on first conviction with fine which may extend to ten thousand rupees, and in the event of a second or subsequent conviction with imprisonment for a term not exceeding six months and with fine which may extend to twenty-five thousand rupees, if he is a domestic consumer;

(ii) on first conviction with fine which may extend to fifty thousand rupees, and in the event of a second or subsequent conviction imprisonment for a term not exceeding two years and with fine which may extend to one lakh rupees, if he is a non-domestic consumer.

46D. *Assessment of water charges in the case of unauthorized use.*—

(1) If on inspection of any place or premises or water meters or any other devices, or any record maintained by any person, the authorized officer of the Authority comes to the conclusion that any consumer is indulging in unauthorized use of water, he shall, notwithstanding any criminal proceedings that may be taken against the consumer, provisionally assess to the best of his judgment the water charges payable on account of such unauthorized use of water.

(2) The order of provisional assessment shall be served to the consumer in such manner, as may be provided by regulations.

(3) The consumer to whom a notice has been served under sub-section (2) shall be entitled to file objection, if any, against the provisional assessment before the authorized officer of the Authority who may, after affording a reasonable opportunity of hearing to such consumer, pass a final order of assessment of the water charges payable by such consumer.

(4) Any consumer served with the order of provisional assessment may accept such assessment and deposit the assessed amount with the officer designated for the purpose within seven days of service of such provisional assessment order upon him.

(5) If the assessing officer arrives at the conclusion that unauthorized use of water has taken place, it shall be presumed that the unauthorized use has been continuing since the date of starting of the construction, in case the

unauthorized use is for construction purpose, or from a date which the assessing officer finds that the unauthorized use has been continuing in case the unauthorized use is for other purposes.

(6) The assessment shall be based on the plinth area of the building, in case of unauthorized use for construction purpose or based on the number of inhabitants, in case of domestic purpose or based on the probable quantity, in case of other purposes.

(7) The water charges under this section shall be assessed in accordance with the guidelines as may be provided by regulations.

46E. *Appeals and Appellate Authority.*—(1) Any person aggrieved by the final order passed under section 46D may, within thirty days of the said order, prefer an appeal to the Superintending Engineer of the Authority having jurisdiction over the area, in such form and in such manner and accompanied by such fees as may be provided by the regulations.

(2) No appeal under sub-section (1) shall be entertained unless an amount equal to one third of the assessed amount is deposited within the period prescribed for the purpose.

(3) The appellate authority referred to in sub-section (1) shall dispose of the appeal within thirty days after hearing the parties.

(4) The orders of the appellate authority passed under sub-section (3) shall be final.”

18. *Amendment of section 47.*—In section 47 of the principal Act, after clause (b), the following proviso shall be inserted, namely:—

“Provided that nothing in this section shall entitle any person to discharge directly or indirectly into any sewer of the Authority any trade effluent from any trade premises except in the manner and subject to such conditions as may be provided by regulations.”

19. *Insertion of new sections 47A and 47B.*—After section 47 of the principal Act, the following sections shall be inserted, namely:—

“47A. *New premises not to be erected without drains.*—(1) In areas where sewers of the Authority are available within a distance of 50 meters, it shall not be lawful to construct or reconstruct any building or other structure unless a drain is constructed of such size, materials and descriptions, at such level and with such fall as may be provided by regulations.

(2) The drain so constructed shall be connected with the sewer of the Authority in such manner and subject to such terms and conditions and payment of such fees as may be provided by regulations.

47B. *Work relating to sewer to be done by Licensed Plumber and as per specifications etc.*—(1) No person other than a licensed plumber or a person duly authorized by the Authority shall execute any work relating to any domestic or non-domestic sewer connecting to a sewer of the Authority and no person shall permit any such work to be executed by a person other than such a person.

(2) Every person who employs a licensed plumber to execute any such work shall, when so required furnish the details of such work executed or to be executed, in such manner, as may be provided in the regulations.

(3) No licensed plumber shall contravene any specifications or standards relating to the execution of such works, provided in the regulations or specified by the Authority or execute such work using sub-standard materials, appliances or fittings.

(4) Where any such work is executed in contravention of sub-sections (1), (2) and (3), such connection is liable to be refused or disconnected.

(5) The Authority may, from time to time, fix the charges to be paid to licensed plumbers for each such kind of work, by regulations.

(6) No licensed plumber shall demand or receive charge for any such work in excess of the rate fixed by the Authority under sub-section (5).

(7) If any licensed plumber executes any such work in contravention of the provisions of this section or the regulations his license shall be suspended or cancelled irrespective of the fact whether any criminal proceedings is taken against him or not."

20. *Insertion of new section 49A.*—After section 49 of the principal Act, the following section shall be inserted, namely:—

"49A. *Certain matters not to be passed into Authority sewers.*—No person shall throw, empty or turn into any Authority sewer or into any drain or sewer communicating with the Authority sewer,—

(a) any matter likely to damage the sewer or to interfere with the free flow of its contents or to affect prejudicially the treatment and disposal of its contents; or

(b) any chemical refuse or waste, steam or harmful liquid provided in the regulations as damaging the sewerage or causing nuisance or harmful to health; or

(c) any dangerous petroleum; or

(d) any other liquids or other materials, the discharge of which is prohibited by the regulations.

Explanation.—In this section, the expression "dangerous petroleum" has the same meaning as in the Petroleum Act, 1934 (Central Act 30 of 1934)."

21. *Insertion of new section 50A.*—After section 50 of the principal Act, the following section shall be inserted, namely:—

"50A. *Prohibition of certain Acts.*—No person shall,—

(a) wilfully obstruct any person acting under the orders or directions of the Authority in setting out the lines of any sewerage or put up or remove any pillar, post or stake fixed in the ground for the purpose of setting out such lines or deface or destroy any works made for the same purpose; or

(b) wilfully or negligently break, injure, turn on, open, close, shut off or otherwise interfere with any lock, cock, valve, pipe or other apparatus of any sewerage of the Authority; or

(c) unlawfully obstruct the flow of or flush, draw off or divert or take sewage from any sewerage of the Authority."

22. *Insertion of new section 52A.*—After section 52 of the principal Act, the following section shall be inserted, namely:—

"52A. *Penalty for the violation of the provisions in this Chapter.*—Any person who contravenes any provisions of this Chapter shall be punishable with fine extending to ten thousand rupees for the first conviction and for the second and subsequent convictions with fine extending to twenty thousand rupees or with imprisonment extending to six months or with both."

23. *Amendment of section 60.*—In section 60 of the principal Act,—

(i) the existing section 60 shall be re-numbered as sub-section (1) of section 60 and in sub-section (1) as so re-numbered, for the words, "one thousand rupees" and "twenty-five rupees", the words "three thousand rupees" and "one hundred rupees" shall respectively be substituted.

(ii) after sub-section (1) so re-numbered, the following sub-section shall be inserted, namely:—

"(2) All fines imposed under this Act or any rule or regulation made thereunder shall on realization be credited to the fund of the Authority."

24. *Insertion of new section 61A.*—In the principal Act, after section 61, the following section shall be inserted, namely:—

"61A. *Cognizance of offences.*—No court shall take cognizance of an offence punishable under this Act except upon a complaint in writing made by the Authority or an officer not below the rank of an Assistant Executive Engineer authorized by the Authority."

25. *Amendment of section 64.*—In sub-section (2) of section 64 of the principal Act, after clause (g); the following clause shall be inserted, namely:—

“(ga) the form and manner in which an appeal to the Superintending Engineer is to be preferred under sub-section (1) of section 46E and the fee for such appeal;”.

26. *Amendment of section 65.*—In sub-section (2) of section 65 of the principal Act,—

(i) after clause (g) the following clause shall be inserted, namely:—

“(ga) the manner in which the Authority shall manufacture, market and sell packaged drinking water, mineral water etc. and goods and articles relating to water supply and sewerage;”;

(ii) after clause (h), the following clauses shall be inserted, namely:—

“(ha) the terms and conditions subject to which water supply is to be provided to multi-storied buildings and flats;

(hb) the manner in which all water connections shall be maintained altered or repaired;”;

(iii) after clause (i), the following clause shall be inserted, namely:—

“(ia) the manner in which the details of work executed or to be executed by licensed plumbers are to be furnished to the Authority and the charges to be paid to licensed plumbers for each kind of work relating to water connection and sewer connection;”;

(iv) after clause (j), the following clauses shall be inserted, namely:—

“(ja) the manner of serving the order of provisional assessment in the case of unauthorized use of water by the consumer and the guidelines for assessment of water charges in such cases;

(jb) the manner in which, the details of the works relating to any sewer connected to the sewer of the Authority is executed or to be executed, is to be furnished to the Authority;

(jc) the liquids and other materials, other than those specified in section 49A, the discharge of which into a sewer is to be prohibited;”.

27. *Repeal and Saving.*—(1) The Kerala Water Supply and Sewerage (Amendment) Ordinance, 2008 (30 of 2008) is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.