

SIKKIM

GOVERNMENT



GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

No. 104

Gangtok, Monday, September 15, 1986.

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:—

1. (1) This Act may be called the Sikkim Water Supply and Water Tax Act, 1986. *Short title, extent and commencement.*
(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.
2. In this Act, unless the context otherwise requires, *Definitions.*
 - (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, 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 the 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 or for 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 to the theatres and cinemas,
- (h) for watering streets, or
- (i) for washing vehicles where they are kept for sale or hire.

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 previous approval of the competent authority. *Water supply for domestic purposes not to be used for non-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. *Supply of water for purposes other than domestic purposes.*
- (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.
6. (1) No owner or occupier of any premises to which water is supplied by the Government shall cause or suffer any water to be wasted, or cause or suffer the service pipe, tap, other fitting or work connected therewith to remain out of repair so as to cause wastage of water. *Prohibition of wastage of water.*
- (2) Where the competent 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.
7. (1) The competent authority may cut off the water supply from any premises— *Power to cut off water supply.*
- (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 authorised 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 interfered 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 tap 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 writing, 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.

Validity of permission.

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 three months on payment of a fee of rupees twenty five.

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. *Notice of stoppage of water supply.*

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 : *Power to lay or carry pipes.*

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 competent authority may, by order and for reasons to be recorded in writing, dispense with the notice.

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 : *Charges for water supply.*

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 be prescribed.

15. (1) The competent authority may, from time to time, by notification, order, — *Power to order fixing of meters or disconnection of the supply of water.*

(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.

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. *Repairs, etc.*

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.

Maintenance 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' or '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 certain 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.
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. *Meter reading.*
- (2) Every entry in the register maintained under sub-section (1) shall be prima facie evidence of the quantity of water consumed.
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. *Obligation of owner to give notice of waste of water.*
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. *Power to enter premises.*
- (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 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.
27. (1) No person shall wilfully injure or suffer to be injured any meter or any of the fittings of any meter. *Injuring meter fittings.*
28. (1) No person shall fraudulently— *Fraud in respect of meters.*
- (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.
29. Use of water shall be free of charge for extinguishing fire. *Water for extinguishing fire.*
30. (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: *Appeal.*

Provided that the authority before whom an appeal is filed may entertain the appeal after the expiry of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing 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.

Revision.

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 purposes of levy of house tax shall be deemed to be the annual value of the premises for the purposes of this Act as well.
- (4) Any person aggrieved by an order of assessment of the 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 of realisation of 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 realise 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 of action taken under this Act.*

- 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 foregoing power, such rules may provide for—
- regulating the size and nature of mains, pipes, taps and other fittings whether within or outside any premises;
 - the prevention of injury or contamination to sources and mains of water supply and appliances for the distribution of water;
 - the manner in which connections with water works, mains, etc. may be constructed, altered or maintained;
 - 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;
 - the area of a lawn or garden other than the area under clause (d) of Explanation to section 3;
 - form and manner of filing an appeal;
 - fees for connection, disconnection, reconnection and other services rendered to the consumer;
 - 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.)

GOVERNMENT

SIKKIM



GAZETTE

**EXTRAORDINARY
PUBLISHED BY AUTHORITY**

Gangtok

Wednesday 22nd March, 2018

No. 121

**GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK**

No. 4/LD/18

Date: 22.03.2018

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received the assent of the Governor on 14th day of March, 2018 is hereby published for general information:-

**THE SIKKIM WATER SUPPLY AND WATER CHARGES (AMENDMENT) ACT, 2018
(ACT NO. 4 OF 2018)**

AN

ACT

to amend the Sikkim Water Supply and Water Tax Act, 1986.

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

**Short title, extent
and
Commencement**

1. (1) This Act may be called the Sikkim Water Supply and Water Charges (Amendment) Act, 2018.
- (2) It shall extend 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.

**Substitution of reference
to certain expression by
Certain other Expression**

2. In the Sikkim Water Supply and Water Tax Act, 1986 (hereinafter referred to as the Principal Act), through out the Principal Act, unless otherwise expressly provided for the words "The Sikkim Water Supply and Water Tax Act", the words "The Sikkim Water Supply and Water Charges Act" shall be substituted.

**Amendment
of
Section 2**

3. In the principal Act,

(1) in section 2,-

(a) for clause (i), the following shall be substituted, namely:-

“(i) ‘area’ means the urban area in the State and includes such other areas adjacent thereto as the Government may declare by notification from time to time, specify to be an area for the purposes of this Act”;

(b) for clause (xiii), the following shall be substituted, namely:-

“(xiii) ‘service pipe’ or ‘service line’ means the portion of consumer main starting from the point where consumer main joins the ‘Government main’ up to the point in the ‘consumer main’:-

(a) where water meter is installed, if installed; or

(b) where the pipe terminates and the water supplied is emptied into a sump tank; or

(c) where water is tapped or drawn for use by the consumer.”

(c) after clause (xiii) and the entries relating thereto, the following shall be inserted, namely:-

“(xiv) ‘Department’ means the Water Security and Public Health Engineering Department for the time being or the ‘Department’ as maybe renamed by the State Government by notification;

(xv) ‘rules’ means the rules made under this Act;

(xvi) ‘Chief Engineer’ means the officer appointed or authorized by the Government to perform the functions of the Chief Engineer under this Act and includes an Officer placed in additional charge of the duties of the Chief Engineer;

(xvii) ‘Government’ means the State Government of Sikkim;

(xviii) ‘Engineer’ means a person holding a valid certificate issued by an institution or college of having passed the course of Diploma or Bachelor’s Degrees or Masters Degree in Civil Engineering subject;

(xix) ‘Plumber’ means a person having ITI certificate or certificate issued by a recognized Skill Building Institute of having passed the course of plumber;

(xx) ‘Local Authority’ means-

- (a) a Municipal Corporation or Municipal Council or Nagar Panchayat constituted under the law in the state;
- (b) a Gram Panchayat constituted under the law in the state;
- (c) a Government Authority for the purpose, as established by Law.
- (xxi) 'Public Health Engineer' means an Officer appointed by the Government to be the Public Health Engineer to discharge the duties of water supply under the provisions of this Act and includes any officer placed in charge of the duties of the Public Health Engineer;
- (xxii) 'Employee' means any person who is paid salary or wage directly by the Department and shall not include any person or persons engaged by any contractor or an agent, of the Department;
- (xxiii) "State" means the State of Sikkim;
- (xxiv) "Trade premises" means any premises used or intended to be used for carrying on any trade or business of any industry or company;
- (xxv) "Fittings" shall mean pipes (other than mains), taps, cocks, valves, ferrules, pumps, meters, cisterns, baths, and other similar apparatus used in connection with the supply and use of water;
- (xxvi) 'Charges' shall mean, water charges, water fees, fines, recoveries for works or any such levy made under this Act or rules made thereunder;
- (xxvii) 'Premises' shall mean any, land, building, superstructure, apartment, residential building or any non-residential building."
- (2) the existing section 2 shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:-
- "(2) Unless the context otherwise requires, the words importing the masculine gender shall include the feminine gender, words importing the singular shall include the plural and words beginning with capital letters shall have the same meaning as may be written in small letters, and vice versa.

Explanation.- 'he' shall have the same meaning as 'she' and vice versa,

'fitting' shall have the same meaning as 'fittings' and vice versa,

'Competent' shall have the same meaning as 'competent' and vice versa."

**Amendment
of
Section 3**

4. In the principal Act, in section 3,-

(1) in sub-section (2),-

(a) in clause (e), after the words "produce", the words "any preparation therefrom" shall be inserted;

(b) in clause (h), before the words "for watering streets", the words "for construction or" shall be inserted.

(2) after sub-section (2), the following sub-sections shall be inserted, namely,-

"(3) The Public Health Engineer in charge of water supply may, on application by the owner or occupier of any building, arrange, in accordance with the rules, to supply water thereto for domestic consumption and use.

(4) The Public Health Engineer in charge of water supply may, if it appears to him that the superstructure are without a proper supply of water for domestic consumption and use and that such supply can be furnished from the main not more than 35 (thirty five) meters distance from any part of any such superstructure, by notice, require the owner of the land to obtain such supply.

(5) Where on any land there are two or more superstructures or apartments, and the owner of the land is not the owner of all the superstructures or apartments, the Public Health Engineer in charge of water supply may, if it appears to him that the superstructure or apartment is without a proper supply of water for domestic consumption and use and that such supply can be furnished from the main not more than 35 (thirty five) meters distance from any part of any such superstructure or apartment, by notice, require the owner of the superstructure or apartment to obtain such supply."

**Amendment
of
Section 5.**

5. In the principal Act, in section 5, after sub-section (4), the following sub-section shall be inserted, namely,-

"(5) The competent authority may by agreement, supply water in bulk to the Government including the Central Government, the Department or any other local authority or any other public or private undertaking or individual or organization on such terms as to payment and as to the period and the conditions of supply as may be agreed upon between the competent authority and such authority."

**Amendment
of
Section 6.**

6. In the principal Act, in section 6,-

(1) for the marginal heading "Prohibition of wastage of water", the following shall be substituted, namely:-

"Prohibition of pollution, wastage, misuse or disturbance in equitable distribution of water";

(2) for sub-section (1), the following shall be substituted, namely:-

"(1) No owner or occupier of any premises to which water is supplied by the Government shall cause or suffer any water to be polluted, wasted, misused or cause disturbance in equitable distribution of water or cause or suffer the service pipe, tap, other fitting or work connected therewith to remain out of repair so as to cause pollution, wastage, misuse or disturbance in equitable distribution of water";

(3) in sub-section (3),-

(a) after the words "repairs to be made" and before the words "and recover", the words "or removed" shall be inserted; and

(b) after the words "from the consumer" appearing at the end, the words "as an arrear of Water charge payable under this Act" shall be inserted.

**Amendment
of
Section 7.**

7. In the principal Act, in section 7, -

(1) in sub-section (1):-

(i) for clause (c) and the entries relating thereto, the following shall be substituted, namely.-

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

(ii) after clause (g), the following clauses shall be inserted, namely.-

"(h) if the owner or the consumer causes or allows to be caused the insertion of any fitting or pump for sucking water directly from the service pipe for drawing water from the Government's main; or

(i) if the owner or occupier neglects to comply with any lawful order or requisition regarding water supply issued by the Department within the period specified therein; or

(j) if the owner or consumer fails to provide proper disposal or treatment of the used water from his premises, in accordance with the provisions of the Sikkim Sewerage and Sewage Disposal Act, 1987 or the Water (Prevention and Control of Pollution) Act, 1974 (Central Act 6 of 1974)."

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

"(2) Action taken under this section against any person shall be without prejudice to any penalties to which he may otherwise be liable under any other provision of this Act or the rules made thereunder or under any other Law.

(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 in the rules made thereunder.

(3) after sub-section (3), the following sub-section shall be inserted, namely:-

"(4) The owner and the occupier of the premises shall be jointly and severally liable for penalty and also liable to pay the expenses of cutting off the supply."

**Amendment
of
Section 8**

8. In the principal Act, in section 8, after the words "necessary so to do", the words "subject to conditions and requirement laid down in the rules made in this behalf" shall be inserted.

**Amendment
of
Section 900**

9. In the principal Act,-

(1) section 9 shall be re-numbered as sub-section (1) thereof, and in sub-section (1) as renumbered, after the words "an application within", the words "such specified time and communicate the same in writing to the applicant" shall be inserted;

(2) after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely;-

"(2) The submission of the duly filled up and signed Application Form along with the specified documents under the Rules made thereunder, to the office of the Divisional Engineer, Water Supply Division, shall, deem to mean the acceptance of, all the conditions and undertaking laid therein."

**Amendment
of
Section 10**

10. In the principal Act, in section 10, -

(1) for sub-section (2), the following shall be substituted, namely:-

"(2) The charges for giving initial connection shall be as notified and prescribed in the rules made thereunder."

**Insertion
of
new Section 10 A**

11. In the principal Act, after section 10, the following new section shall be inserted, namely:-

"10 A. Modalities for Connections

(1) Water Supply connection by the Department for any purpose including that of domestic use shall ordinarily be given only at the ground level of the premises. It

shall not be lawful for any owner or occupier to demand water supply connection from the service pipe at any other elevation or level.

- (2) It shall not be lawful for any owner or occupier to use any pumps or devices to suck water directly or indirectly from the government mains or service pipes.
- (3) The owner of every premises having more than one storey and connected with water supply from the service pipe at the ground level shall, provide a sump and set up electrical pump or other contrivances of adequate capacity and such other arrangements as prescribed, to pump the water to the required height of such premises with the prior approval of the competent authority.
- (4) On every service pipe laid after the date of coming into force of this section, the owner or occupier shall, fit a stopcock on every service pipe laid before or after such date.
- (5) Every stopcock fitted on a service pipe after the date of coming into force of this section shall be placed in such position as the Department deems most convenient:

Provided that—

- (a) a stopcock in private premises shall be placed as near as is reasonably practicable to the street from which the service pipe enters that premises; and
 - (b) a stopcock in a street shall be placed as near to the boundary thereof as is reasonably practicable.
- (6) No water pipe shall be laid in a drain or on the surface of an open channel or house gully or a cesspool or in any position where the pipe is likely to be damaged or the water therein polluted; and except with the approval of the Department, no latrine pit or soak pit or cesspool shall be constructed or made within six meters of any water pipe or water work or in any position where the water pipe or water work is likely to be damaged or the water therein polluted.
 - (7) No person other than an Engineer or a plumber or an Officer or employee authorised by the Competent Authority in this behalf shall execute the work of consumer main, service line or internal water supply connections of premises.
 - (8) No water supply connection shall be given to the owner or occupier of a premise unless the internal water

supply connections of such premises have been duly executed in accordance with the standard specifications prescribed under this Act.

- (9) The State Government may by notification in the Official Gazette, make regulations for compliance by the Engineers or plumbers.
- (10) Any person who willfully violates the provisions of this section shall be liable to have the water supply disconnected to the premises and no new connection shall be sanctioned unless the owner or the occupier complies with the provisions of this section".

***Amendment
of
Section 11***

- 12. In the principal Act, in the proviso to section 11, after the words "on payment of fee", for the word "or rupees twenty five", the words "as prescribed under the rules" shall be substituted.

***Amendment
of
Section 13***

- 13. (1) In the principal Act, in section 13, for the marginal heading "power to lay or carry pipes", the marginal heading "power to lay or carry pipes or to construct water works and payment of compensation etc", shall be substituted.
- (2) section 13 shall be re-numbered as sub-section(1) thereof and after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, namely;-
 - "(2) All reservoirs, tanks, cisterns, fountains, wells, and bore wells, pumps, pipes, taps, conduits and other works connected with the supply of water to the notified area, including the headwork's, reservoirs and the Government mains, and all bridges, building, machinery, works materials and other things connected therewith and all land (not being private property) adjacent and appertaining to the same, shall vest in the Department and be subject to its control.
- (3) The Department may construct, lay, or erect filtration plants, reservoirs, machinery, conduits, pipes, or other works in any place in the state for supplying the notified area with water, and may provide, tanks, reservoirs, machinery, mains, fountains and other conveniences within or outside the notified area for the use of the inhabitants.
- (4) The Department may cause existing water works to be maintained and supplied with water or it may close any such works and substitute other such work and may cause them to be maintained and supplied with water.
- (5) Notwithstanding anything contained in any other law for the time being in force, the Department may lay a main within or without the local limits of the notified area,—

- (a) in any street or any land vested in the Government, the Department or any other local authority or any Government Company or Department owned or controlled by the Government;
- (b) with the consent of every owner or occupier of any land not forming part of a street, in over or on that land, and may, from time to time inspect, repair, alter or renew or may, at any time, remove any main, whether laid under this Act or otherwise:

Provided that where consent required for the purpose of this sub-section is withheld, the Department may, after giving the owner or occupier of the land a 15 (fifteen) days of written notice of its intention to lay the main in, over or on that land even without such consent.

- (6) Where the Department, under the provision of this section, lays a main in, over or on any land not forming part of a street or land referred to in clause (a) of sub-section (5) or inspects, repairs, alters, renews or removes a main so laid in, over or on any such land, it shall pay a compensation to every person interested in that land for any damage done to or injurious affection of, that land by reason of such laying, inspection, repairs, alteration, renewal or removal of the main.
- (7) The Department may, in any street or any land referred to in clause (a) of sub-section (5) whether within or without the local limits of the notified area, lay such service pipes with such stopcocks and other water fittings as it may deem necessary for supply of water to premises and may, from time to time, inspect, repair, alter or renew and may, at any time, remove any service pipe laid in such street or land whether under this Act or otherwise.
- (8) Where a service pipe has been lawfully laid in, over or on the land not forming part of a street or land referred to in sub-section (7), such officers as the Department may authorize, from time to time, enter upon that land and inspect, repair, alter, renew or remove the pipe or lay a new pipe in substitution thereof but shall pay compensation for any damage done in the course of such action.
- (9) The Department may place and maintain conduits and lines of mains or pipes, over, under, along or across any immovable property whether within or without the local limits of the notified area without acquiring the

same and may at any time for the purpose of examining, repairing, altering or removing any conduits or lines of mains or pipes, enter on any property over, under, along or across which the conduits or lines of mains or pipes have been placed:

Provided that the Department shall not acquire any right other than a right of user in the property over, under, along or across which any conduit or line of mains or pipes is placed.

- (10) If it appears to the Department that the only technically feasible alternative means of water supply to any premises is by placing or carrying any pipe over, under, along or across the immovable property of another person it may, by order in writing, authorize the owner of the premises to place carry such pipe, over, under, along or across such immovable property:

Provided that before making any such order the Department shall give to the owner of the immovable property a reasonable opportunity of showing cause within such time as may be prescribed by regulations so as to why the order should not be made:

Provided further that the owner of the premises shall not acquire any right other than a right of user in the property over, under, along or across which any such pipe is placed or carried.

- (11) Upon making of an order under sub-section (10), the owner of the premises may, after giving reasonable notice of his intention so to do, enter upon the immovable property with the assistants and the workmen at any time between sunrise and sunset for the purpose of placing a pipe over, under, along or across such immovable property or for the purpose of repairing the same.
- (12) In placing or carrying a pipe under sub-section (11), as little damage as possible shall be done to the immovable property and the owner of the premises shall,-
- (a) cause the pipe to be placed or carried with the least practicable delay;
 - (b) fill in, reinstate and make good at his own cost and with the least practicable delay, any land opened, broken up or removed for the purpose of placing or carrying of such pipe; and
 - (c) pay compensation to the owner of the immovable property and to any other person who sustains damage by reason of the placing or carrying of such pipe.

- (13) If the owner of the immovable property over, under, along or across, which a pipe has been placed or carried under this section while such immovable property was not built upon, desires to erect any building on such property, the Department shall by notice in writing, require the owner of the premises as indicated in sub-section (10), to close, remove or divert the pipe in such manner as shall be approved by him and to fill in, reinstate and make good the immovable property as if the pipe has not been placed or carried over, under, along or across the same:

Provided that no such requisition shall be made unless in the opinion of the Department it is necessary or expedient for the construction of the proposed building or the safe enjoyment thereof that the pipe should be closed, removed or diverted.

- (14) No person shall obstruct or hinder any person authorized or empowered by or under this Act in the execution of his duty or of anything which he is authorized or empowered or required to do by virtue of or in consequence of any of the provisions of this Act or any rules or made thereunder.
- (15) No person shall, except with the permission duly obtained from the Department or the Public Health Engineer in charge of water supply, enter on land or premises or water works of the Department.
- (16) Save as provided for in any other section of this Act, any compensation to be paid under this section or the other provisions in this Act, shall be as determined by the local authority as established by Law."

**Amendment
of
Section 14**

14. In the principal Act, for section 14, the following shall be substituted, namely:-

"14. Charges for Water Supply

- (1) The Government may, from time to time by notification in the Official Gazette, fix the times (frequency of payment), conditions and 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 or any formula approved by the competent authority, by the consumer for supply of water under this Act and different rate or rates, frequency or condition may be fixed for different areas and for different consumers and for different quantities.
- (2) The competent authority may provide free of charges gratuitous supply of wholesome water to the public within the notified area and may, for that purpose, erect public stand posts or other conveniences.

- (3) The Government may, from time to time by notification, levy water charge on the bill of the consumer.
- (4) The Government may, from time to time by notification, levy and include the service charge for sewerage services in a single water supply cum sewerage bill where such service is provided by the Department."

**Amendment
of
Section 15**

15. In the principal Act, in section 15, after sub-section (3), the following sub-sections shall be inserted, namely:-

- "(4) The installation, use, maintenance and testing of meters and disconnection of water supply shall be regulated by rules made on this behalf."

**Amendment
of
Section 16**

16. In the principal Act, section 16 shall be renumbered as sub-section (1) of that section and in sub-section (1) as so renumbered,-

- (i) after the words "altered" and before the words "as may be necessary", the words "and kept in proper order" shall be inserted;
 - (ii) after sub-section (1), the following new sub-sections shall be inserted, namely:-
- "(2) when under the provisions of this Act any person may be required or is liable to execute any work including repairs, the Department may in accordance with the provisions of this Act and any rules made in this behalf, cause such work to be executed after giving such person an opportunity of executing the same within such time as may be specified by it for this purpose.
- (3) The expenses incurred or likely to be incurred by the Department in the execution of any such work shall be payable by the said person and the expenses incurred by the Department in connection with the maintenance of such work shall be payable by the person or persons enjoying the amenities and conveniences rendered possible by such work.
 - (4) The expenses under sub-section (3) shall be as determined by the competent authority, whose written certificate shall be final and binding and recoverable from the person or persons liable thereof as an arrear of water charge payable under this Act."

**Amendment
of
Section 18.**

17. In the principal Act, in section 18,-

- (i) in the marginal heading, after the word "main" and before the words "not to be made", the words "or water works" shall be inserted; and
- (ii) after the words "Government main" appearing at the end, the words "or water works" shall be inserted.

**Amendment
of
Section 19.**

18. In the principal Act, for section 19, the following shall be substituted, namely:-

"19. Indemnity

Notwithstanding anything contained in any other law for the time being in force or any deed executing 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 reducing the supply of water or failure to supply water to any person or to any area if the cause of such failure to supply water to any person or to any area, is due to source depletion, drought, damage, accident, re-laying or repairing pipes or any other circumstance that is beyond the control of the Government, its officers and employees."

**Amendment
of
Section 21.**

19. In the principal Act, section 21 shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-sections shall be inserted, namely:-

- "(2) If any building, wall or any other structure be so erected or any street be so laid, the Public Health Engineer in charge of water supply or any other officer authorized by the Department in this behalf may cause the same to be removed or otherwise dealt with as he deems fit and the expenses thereby incurred shall be paid by the persons contravening the provisions of sub-section (1).
- (3) The expenses under sub-section (2) shall be as determined by the competent authority, whose written certificate shall be final and binding."

**Amendment
of
Section 22.**

20. In the principal Act, for section 22 and the entries relating thereto, the following shall be substituted, namely:-

"22. Notified water sheds, water source and water main routes",

- "(1) All water bodies, shall be identified as watersheds or water sources or both or water main routes.
- (2) Such 'watersheds or water sources' or 'water main routes' shall be under the administrative control of the Department.
- (3) Any use of water from such 'watersheds or water sources' or '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 fee for use of water from, the 'watersheds or water sources' or water main routes by the public, local authority or any other agency and the charges shall, as may be prescribed by the rules.

Explanation.-

For the purpose of this section,-

- (a) 'watershed' 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, felling 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 with 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 'water bodies' and includes any lakes, rivers, aquifers, ground water, streams, spring or ponds (whether formed naturally or otherwise) from where water is tapped for domestic or any other purposes.

***Amendment
of
Section 23***

- 21. (1) In the principal Act, section 23 shall be renumbered as sub-section (1) thereof, and in sub-section (1) as so renumbered,-
 - (i) for clause (a), the following shall be substituted, namely:-
 - “(a) remove, alter, injure, damage or in any way interfere, break, injure, turn on, open, close, shut off or otherwise interfere with any lock, cock, valve, pipe, meter or other works or apparatus, with the demarcated water works”;
 - (ii) for clause (g), the following clause shall be substituted, namely:-
 - “(g) willfully or negligently obstruct any person in the discharge of his duties under this Act or rules made thereunder in setting out the lines of any works or pull, or remove any pillar, post or stake fixed in the ground for the purpose of setting out the lines of such work or deface or destroy any works made for the same purpose”;
 - (iii) after clause (g) the following clauses shall be inserted, namely:-
 - “(h) obstruct any officer or employee of the Department in the discharge of his duties under this Act or rules made thereunder, or refuse or willfully neglect to furnish him with the means necessary for the making of any entry, inspection, examination or inquiry thereunder in relation to any water work; or

- (i) obstruct the flow off, flush, draw off or divert, or take, water from any water works belonging to the Department or any water course by which any such water is supplied; or
- (j) do any other act which the Government may, by notification, prohibit."
- (2) after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:-
- "(2) nothing in clause (a) of sub-section (1) shall apply to a consumer closing the stop-cock fixed on the service pipe supplying water to his premises so long as he has obtained the consent of any other consumer or occupier whose supply will be affected thereby."

**Amendment
of
Section 24**

22. In the principal Act, in section 24, after sub-section (2), the following sub-sections shall be inserted, namely:-

- "(3) When water is supplied in accordance with the provisions of this Act through a meter, it shall be presumed that the quantity indicated by the meter has been consumed until the contrary is proved.
- (4) The competent authority may authorise any person to test any water fitting used in connection with water supplied by him."

**Amendment
of
Section 25**

23. In the principal Act, in section 25,-

- (i) for the marginal heading "Obligation of owner to give notice of waste of water" the marginal heading "Obligation of owners, citizens, policeman and employees", shall be substituted;
- (ii) for sub-section (1), the following shall be substituted, namely:-
- "(1) The owner or occupier of any premises to which water is made under the provision of this Act and has within his knowledge that such water is being misused or wasted whether within or outside his own land or premise, shall forthwith give notice in writing to competent authority of such misuse or wastage.",
- (iii) after sub-section (1), the following sub-sections shall be inserted, namely:-
- "(2) The owner or occupier of any premises to which water is made under the provision of this Act shall have primary obligation for watch and ward of the water meter and shall not tamper with the water meter and prevent any person from tampering and shall forthwith give notice in writing to competent authority of such tampering by another person.

- (3) It shall be the duty of all citizens, policemen and employees of the Department or any Local Authority to give immediate information to the Department or officers of the Department authorized in this behalf, of the commission of, or the attempt to commit, any offence against this Act or any rules or regulation made thereunder and to assist all such officers in the exercise of their lawful authority."

**Amendment
of
Section 26**

24. In the principal Act, in section 26,-

- (i) for sub-section (1), the following shall be substituted, namely:-
- "(1) The Chief Engineer, the Public Health Engineer or any employee authorized by the competent authority in this behalf or empowered in this behalf by or under the provisions of this Act or rules made there under, may, enter into or upon any land or premises with or without assistants and workmen for the purpose of:-
- (a) ascertaining whether, within or outside the land or premises, there is or has been any contravention of the provisions of this Act or any rules made thereunder;
- (b) taking any action or executing any work authorised or required by this Act or any rules or regulation made thereunder;
- (c) making any inquiry, inspection, examination, measurement, valuation or survey "authorised under this Act or rules made thereunder";
- (ii) after sub-section (2), the following sub-sections shall be inserted, namely:-
- "(3) the Chief Engineer, Public Health Engineer or any employee authorised by the competent authority, may enter on any adjoining land or premises, with or without assistants and workmen for requirement under sub-section (1) or for depositing thereon any soil, gravel, stone or other materials or for obtaining access to such work or for any other purposes for administration of any provision of this Act or rules made thereunder,
- (4) the person so authorised shall, before entering on any such land or premises state the purpose thereof, and
- (5) the person so authorised shall, in exercising any power conferred by this section, do as little damage as may be and suitable compensation shall be payable by the Department to the owner or occupier for any such damage, whether permanent or temporary. Suitable compensation shall be as determined by the prescribed local Authority by Law.

- (6) If the Chief Engineer, the Public Health Engineer, or any employee authorised in this behalf by the competent authority is, at any such time, refused admittance into such land or premises for the purpose of administration of any provision of this Act or rules made thereunder, the competent authority may, after giving the consumer an opportunity of being heard, cut off the supply of water to that premises.
- (7) If the nature of work requiring entry is of such urgency that it cannot be delayed, it shall be lawful for the Chief Engineer, the Public Health Engineer, or any employee authorised in this behalf by the competent authority, for purpose of administration of any provision of this Act or rule made thereunder, to make any entry in to any place and to open or cause to be opened any door, gate or other barrier including breaking in-
 - (a) if he considers the opening thereof necessary for the purpose of such entry; and
 - (b) if the owner or occupier is absent or being present refuses to open such door, gate, or barrier.
- (8) Before making any entry or break in into any such place or opening or causing to be opened any such door, gate or other barrier, the Chief Engineer, the Public Health Engineer or the employee authorised or empowered in this behalf, shall call upon two or more respectable inhabitants of the locality in which the place to be entered into is situated, to witness the entry or opening and may issue an order in writing to them or any of them so to do.
- (9) A report shall be made to the Department as soon as may be after any entry has been made into any place or any door, gate or other barrier has been opened under this section.
- (10) Save as otherwise provided in this Act or any rule made thereunder, no entry authorised by or under this Act, shall be made except between the hours of sunrise and sunset.
- (11) Save as otherwise provided for in sub-section (7) and any other provision of this Act or any rule made there under, no entry upon or into any land or premise shall be made without the consent of the occupier, or if there is no occupier, or the owner thereof and no such entry shall be made without giving the said owner or occupier, as the case may be, not less than twenty-hours written notice of the intention to make such entry.
- (12) When any place used as a human dwelling is entered under this Act, due regard shall be paid to the social

and religious customs and usages of the occupants of the place entered, no apartment in the actual occupancy of a female shall be entered or break open until she has been informed that she is at liberty to withdraw and every reasonable facility has been afforded to her for withdrawing."

**Amendment
of
Section 27.**

25. In the principal Act, in section 27,-

- (i) for the marginal heading "Injuring meter fittings", the marginal heading "Injuring meter, fittings, water works" shall be substituted;
- (ii) for sub-section (1), the following shall be substituted, namely:-

"(1) No person shall willfully or negligently injure or suffer to be injured any meter or any of the fittings of any meter, any other fitting of water works and shall be deemed to be an offence under this Act.";
- (iii) after sub-section (1), the following sub-sections shall be inserted, namely:-

"(2) Such person shall be prosecuted in the Magistrates Court and the offence under sub-section (1) shall be punishable by a fine equal to two times the actual cost of repair, renewal or restoration or imprisonment up to two years or with both.

(3) The actual cost of repair, renewal or restoration under sub-section (2) shall be as determined by the competent authority, whose written certificate shall be final and binding."

**Amendment
of
Section 29**

26. In the principal Act, in section 29, after sub-section (1), the following sub-sections shall be inserted, namely:-

- "(2) Subject to techno-economic feasibility, the Public Health Engineer in charge of water supply may fix hydrants or static tanks, at such places as may be most convenient for affording a supply of water for extinguishing any fire.
- (3) The Competent Authority may require the owner or occupier of any factory, workshop, trade premises or place of business or residential house or non residential house, to provide for and maintain in working condition and in a suitable location and of prescribed dimensions, static tanks and one or more fire hydrants, to be used only for extinguishing fires."

**Amendment
of
Section 30**

27. In the principal Act, in section 30,-

- (i) throughout sub-section (1), for the words "Chief Engineer-cum-Secretary, Buildings, PHE and Housing

Department", wherever they occur, the words "Principal Chief Engineer-cum-Secretary" shall be substituted;

- (ii) in sub-section (2), after the words "under appeal" appearing at the end, the words "and the orders of the appellate authority on such appeal shall be final" shall be inserted.

***Amendment
of
Section 31***

28. In the principal Act, in section 31, the words "water supply" appearing before the word "Department" and after the words "the Minister-in-charge of", shall be omitted.

***Amendment
of
Section 32***

29. In the principal Act, section 32 shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:-

"(2) Joint and several liability of owners and occupiers shall exist for sub-section (1)."

***Amendment
of
Section 33***

30. In the principal Act, for section 33, the following shall be substituted, namely:-

"33. Levy of Water Fee

- (1) For the purposes of this Act, the Government shall levy, on any establishment, industry where water not supplied by the competent authority is used for non domestic purpose, a fee at such rate the Government may, from time to time, by notification, specify and different rates of fee may be specified for different areas or different usage.

Provided that:-

- (a) no such fee shall be levied and collected in any area where such fee is already being collected by any local authority, or any other authority under the provisions of Sikkim Laws;
- (b) no such fee shall be levied and collected in any area where water charge is already being collected by the competent authority;
- (c) no such fee shall be levied and collected from any establishment, industry where the daily usage is up to one kilolitre;
- (d) no such fee shall be levied and collected when water is used for agricultural purposes.

***Amendment
of
Section 34***

31. In the principal Act, in section 34,-

- (1) in the marginal heading, for the words "Annual Value", the words "water fee" shall be substituted;

(2) for section 34 and the entries relating thereto, the following shall be substituted, namely:-

“(1) For the purpose of section 33, Water Fee shall be assessed as per the usage data of the establishment or industry and the annual bill for each financial year shall be payable by the establishment or industry.

(2) The Competent Authority may by notice demand, the user of water under section 33 of the Act to submit evidence or records of the annual usage of the volume of water in the establishment or industry, refusal to submit the record shall invite penalty in terms of the Act.

(3) The average daily consumption shall be based on the annual usage record of the preceding year, or may be evaluated by the Divisional Engineer, considering the available information, which the user shall be bound to accept, provided that reasons for such evaluation shall have to be recorded.

(4) Any person aggrieved by an order of evaluation of the annual usage made by an authority under sub-section (3) may, within 30 (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.”

**Amendment
of
Section 35**

32. In the principal Act, for section 35, the following shall be substituted, namely:-

“35. Fees and Charges

(1) The competent authority may levy such fees or charges for issue of no objection certificate, water quality certificate, water availability certificate or any other certificate regarding water supply and for connection, disconnection, re-connection of water supply or testing or supervision or for any other service rendered or work executed, repaired, maintained or supervised as may be prescribed.

(2) The fees or charges referred to in sub-section (1) shall be such as may be prescribed.”

**Amendment
of
Section 36**

33. In the principal Act, section 36 shall be renumbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:-

“(2) The Competent Authority may provide free of charges gratuitous supply of wholesome water to the public within the notified area and may, for that purpose, erect public stand posts or other conveniences.”

**Amendment
of
Section 37**

34. In the principal Act, for section 37, the following shall be substituted, namely:-

"37. Manner of realization of water charges, fees or fines

- (1) The competent authority may by notice require the owner or occupier of the premises to pay within 15 (fifteen) days from the date of receipt of notice the charges, fees or fines on account due and recoverable from such owner or occupier.
- (2) If any notice, order or requisition has been issued to any person in respect of property of which he is the owner, the authority or officer at whose instance such notice, order or requisitions has been issued, may require the occupier, receiver, trustee or agent of such property or of any part thereof pay to him, instead of the owner, any rent payable by him in respect of such property, as it falls due up to the amount recoverable from the owner;

Provided that if the occupier refuses to disclose the correct amount of the rent payable by him or the name or address of the person to whom it is payable, the authority or officer may recover from the occupier the whole amount recoverable, as an arrear of charges payable under this Act.

- (3) Notwithstanding any contract between the owner and the occupier, any amount recovered from an occupier instead of from an owner under sub-section (2), shall be deemed to have been rent paid by the occupier to the owner. The certificate of receipt, indicating such an amount, issued by the competent authority shall be final and conclusive proof of payment in this regard.
- (4) Whenever the owner of any land or building fails to execute any work which he is required to execute under this Act or any rule made there under, the occupier, if any, of such land or building may, with the approval of the Department, execute the said work and he shall, notwithstanding any contract between the owner and the occupier, be entitled to recover from the owner the reasonable expenses incurred by him in the execution of the work and may deduct the amount thereof from the rent payable by him to the owner.
- (5) Where any person, by reason of his receiving rent to immovable property as a receiver, agent to trustee or if his being, as a receiver, agent or trustee, the person who would receive the rent if the property were let to tenant, would under this Act or any rule made there under, be bound to discharge any obligation imposed on the owner of the property for the discharge of which

money is required, he shall not be bound to discharge the obligation unless he has, or but for his own improper act or default might have had, funds in his hands belonging to the owner sufficient for the purpose.

- (6) The burden of proving any fact entitling a receiver, agent or trustee to relief under sub-section (5) shall lie upon him.
- (7) Where any receiver, agent or trustee has claimed and established his right to relief under this section, the Department may by notice in writing require him, to apply to the discharge of his obligation as aforesaid the first money which may come to his hands on behalf or for the use of the owner and on failure to comply with notice, he shall be deemed to be personally liable to discharge the obligation.
- (8) Any person who has been convicted of an offence against this Act or any rule made there under shall, notwithstanding any punishment to which he may have been sentenced for the said offence, be liable to pay such compensation for any damage to the property of the Department resulting from the said offence as the Department may consider reasonable.
- (9) Save as the certificate issued under section 16, section 21, and section 27, in the event of a dispute regarding the amount of reasonable compensation, payable under sub-section (8) such amount shall, on application made to him be determined by the Magistrate before whom the said person was convicted of the offence; and on non-payment of the amount of compensation so determined the same shall be recovered under a warrant from the said Magistrate as if it were a fine imposed by him on the person liable therefor and remit it to the competent authority.
- (10) 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-sections (1), (2) and (7), the competent authority may, without prejudice to any other mode of recovery, prepare a certificate indicating the amount 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.
- (11) 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".

*Insertion of
new Section 37 A*

35. In the principal Act, after section 37, the following section shall be inserted, namely:-

"37 A. Notices

- (1) Where any notice, bill, order or requisition issued or made under this Act or any rule made thereunder, requires anything to be done for the doing of which no time is fixed in this Act or the rule made thereunder, the notice, bill, order or requisition shall specify a reasonable time for doing the same.
- (2) All notices, bill, summons and other documents required by this Act or any rule made thereunder to be served upon, or issued to, any person, shall be served or issued by such persons as may be authorized by the Department.
- (3) Every notice, bill, summon, order requisition or other document required or authorised by this Act or any rule made thereunder to be served or issued on any person shall, save as otherwise provided in this Act or such rule, be deemed to be duly served-
 - (a) where the person to be served is a company if the document is addressed to the Secretary of the Company at its registered office or at its principal office or place of business and is either-
 - (i) sent by speed post or registered post; or
 - (ii) deliver at the registered office or at the principal office or place of business of the company;
 - (b) where the person to be served is a partnership, if the document is addressed to the partnership at its principal place of business, identifying it by the name and style under which its business is carried on, and is either-
 - (i) sent by speed post or registered post; or
 - (ii) delivered at the said place of business;
 - (c) where the person to be served is a public body of a Department, organization, society or other body, if the document is addressed to the Secretary, Treasurer or other head of office of that body, Department, organization, or society at its principal office, and is either-
 - (i) sent by speed post or registered post; or
 - (ii) delivered at that office;
 - (d) in any other case, if the document is addressed to the person to be served and-
 - (i) is given or tendered to him;
 - (ii) if such person cannot be found is given or tendered to some adult member of his family; or

- (iii) is sent by speed post or registered post to that person.
- (4) Any document which is required or authorized to be served on the owner or occupier of any land or building may be addressed as, 'the owner' or 'the occupier' as the case may be, of that land or building (identifying that land or building) without further name of description, and shall be deemed to be duly served-
 - (a) if the document so addressed is sent or delivered in accordance with sub-section (5) and its relevant sub clause; or
 - (b) where a document is served on a partnership in accordance with this section, the document shall be deemed to be served on each partner, if the document so addressed is sent or delivered in accordance with sub-section (5) and its relevant sub-clause.
- (5) For the purpose of enabling any document to be served on the owner of any premises the Public Health Engineer or any other officer authorized or empowered to do so may by notice in writing require the occupier of the premises to state the name and address of the owner thereof.
- (6) Where the person on whom a document is to be served is a minor the service upon his guardian or any adult member of his family shall be deemed to be served upon the minor.
- (7) Nothing in the sub-sections (1) to (5) shall apply to any summons issued under this Act by a Court.
- (8) In the event of non-compliance with the terms of any notice, order or requisition issued to any person under this Act or any rule made there under, requiring such person to execute any work or to do any act, it shall be lawful for the authority or officer at whose instance the notice, order or requisition has been issued, to take such action or such steps as may be necessary for the completion of the act or the work required to be done or executed by such person and all the expenses incurred on such account shall be payable to the Department on demand and if not paid within 15 (fifteen) days after such demand, the expenses shall be recoverable as an arrear of charges payable under this Act, whether or not the person in default is liable to punishment for such default or has been prosecuted or sentenced to any punishment thereof.
- (9) No notice, order, requisitions, permission in writing or any other document issued under this Act or any rule shall be invalid merely by reason of any defect in form or detail."

**Amendment
of
Section 38**

36. In the principal Act, in section 38, in clause (a) of sub-section (2), after the word "firm" and before the words "or other association", the word "organization" shall be inserted.

**Amendment
of
Section 39**

37. In the principal Act, for section 39, the following shall be substituted, namely:-

"39. Sanction for prosecution, Arrest

- (1) No prosecution shall be instituted under this Act without the permission in writing of the Government.
- (2) Save as otherwise provided in this Act, no Court shall proceed with the trial of any offence made punishable by or under this Act or any rule, except on the complaint of or upon written information received from, the Public Health Engineer or any officer authorized by the competent authority.
- (3) The Chief Engineer, the Public Health Engineer, or any officer authorised in this behalf by the Competent Authority or any police officer who shall be, of, or equal to or higher than the status of a sub-inspector of police may arrest any person who commits in his view any offence against this Act or against any rule made there under, if,-
 - (a) the name and address of such person be known to him; and
 - (b) such person on demand declines to give his name and address or gives a name and address which such officer has reason to believe to be false.
- (4) No person so arrested shall be detained in custody after his true name and address are ascertained or, without the order of the nearest Magistrate, for a period longer than twenty-four hours from the time of arrest exclusive of the time necessary for the journey from the place of arrest to the Court of such Magistrate.
- (5) If the competent authority has reason to believe that an offence has been committed in violation of any provisions of this Act or rules made thereunder, the owner, the person primarily liable for the payment of the charges for water, and the occupiers of the said premises shall be jointly and severally liable for such offence."

**Amendment
of
Section 40**

38. In the principal Act, in section 40,-

- (i) for the marginal heading "Delegation", the marginal heading "Delegation, Competent Authority and Re-delegation" shall be substituted;

- (ii) after sub-section (2), the following sub-sections shall be inserted, namely:-

“(3) The Principal Chief Engineer-cum-Secretary of the Department shall be competent authority in respect of the administration of this Act and for that purpose may exercise all powers necessary in that behalf or delegate it to a subordinate authority by an order in writing.

(4) The Chief Engineer or any other officer or officers notified by an order of the competent authority in this behalf may also exercise any power or perform any function entrusted to him by such notification.”

**Amendment
of
Section 41**

39. In the principal Act,-

(i) section 41 shall be renumbered as sub-section (1) thereof and in sub-section(1) as so re-numbered, after the word “thereunder” and before the words “shall, on conviction”, the words “or fails to comply with any order or direction lawfully given to him or any requisition lawfully made upon him under any of the said provisions” shall be inserted;

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

“(2) In the case of a continuing contravention or failure after conviction, such continuing of contravention or failure shall be punishable with daily fine which may extend to one hundred rupees for every day during which such contravention or failure continues after conviction.

(3) Action taken under Act or the rules made thereunder, against any person shall be without prejudice to any penalties to which he may otherwise be liable under any other Law.”

**Amendment
of
Section 42**

40. In the principal Act, for section 42, the following shall be substituted, namely:-

“42. Protection of Action taken under this Act and Public Servant

(1) No suit or prosecution shall be entertained in any court against the Department or against any officer or employee of the Department or against any person acting under the order or direction of the Competent Authority or any officer or employee of the Department for anything which is in good faith done or intended to be done under this Act or any rule or regulation, made thereunder.

**Amendment
of
Section 43**

- (2) No suit, prosecution or other legal proceedings shall lie against any officer or employee of the Department for any act done or purporting to be done under this Act or any rule or regulation made there under without the previous sanction of the Government.
- (3) All members, officers and employees of the Department shall be deemed, when acting or purporting to act in pursuance of the provisions of this Act or any rule or regulations made thereunder, to be public servants within the meaning of Law for the time being in force."

41. In the principal Act, in section 43,-

- (i) In the marginal heading, after the word "rules", the words "and supplemental order" shall be inserted;
- (ii) in sub-section (2),-
 - (a) in clause (d), the words "and all meters in connection, with the use of water and turning on and off and preventing waste of water" appearing after the word "meters" shall be omitted;
 - (b) for clause (g), the following shall be substituted, namely:-
 - "(g) charges or fees for connection, disconnection, reconnection and other services rendered to the consumer";
 - (c) for clause (h), the following shall be substituted, namely:-
 - "(h) the equitable distribution of water supplied to the owners, occupiers or users within the notified area";
 - (d) after clause (h), the following clauses shall be inserted, namely:-
 - "(i) altering the position of connections;
 - (j) the prohibition of fraudulent and unauthorized use of water and the prohibition of tampering with meters;
 - (k) the compulsory employment of engineers or plumbers for the work of consumer line or service line or internal and external plumbing of the consumer's premises.
 - (l) the delegation and re-delegation of duties and responsibilities of officers and employees of the Department;

- (m) the power of the Competent Authority to take charge of private connections;
- (n) any other matter arising out of the Department's function under this Act, in which it is necessary or expedient to make such Rules.
- (o) the use of water and preventing misuse, wastage or disturbance in the equitable distribution of water."

JAGAT B. RAI (SSJS)
L.R-cum-SECRETARY
LAW DEPARTMENT

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