

Himachal Pradesh Water Supply Act, 1968

8 of 1969

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Himachal Pradesh Water Supply Act, 1968

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An Act to provide for the development, control and management of the water

supply works in rural and urban areas of Himachal Pradesh.

BE it enacted by the Legislative Assembly of HIMACHAL PRADESH in the Nineteenth

Year of the Republic of India as follows:-

1. Short title, extent commencement :-

- (1) This Act may be called the Himachal Pradesh Water Supply Act, 1968.
- (2) It extends to the whole of Himachal Pradesh.
- (3) It shall come into force at once

2. Definition :-

In this Act, unless there is anything repugnant in the subject or context,-

- (i) Beneficiary means, in respect of any water supply scheme, any

local authority for the time being deriving, or which is to derive, benefit from such scheme;

(ii) Consumer means a person who takes water from a beneficiary to whom a water supply scheme may be entrusted or who takes water from a water supply scheme managed directly by the Government; Explanation.-Consumer does not include a beneficiary.

(iii) Co-operative society means a society registered or deemed to be registered under the provisions of the Himachal Pradesh Co-operative Societies Act, 1956, (13 of 1956), or the Punjab Co-operative Societies Act, 1961, (25 of 1961) as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Reorganisation Act, 1966, (31 of 1966).

(iv) Official Gazette means the Rajpatra, Himachal Pradesh;

(v) Government or State Government means the Government of Himachal Pradesh;

(vi) ²[Gram Panchayat, Panchayat Samiti and Zila Parishad have the meanings respectively assigned to these expressions in the Himachal Pradesh Panchayati Raj Act, 1968; (19 of 1970)]

(vii) Local authority means a co-operative society, gram panchayat, panchayat samiti, zila parishad, municipal committee or any other authority entrusted by the Government with the development of control or management of a water supply scheme ;

(viii) Municipal Committee and Notified Area Committee have the meanings respectively assigned to these expressions in [the Himachal Pradesh Municipal Act, 1968 (19 of 1968);

(ix) Prescribed means prescribed by rules made under this Act;

(x) Rural area means the whole of the territories of Himachal Pradesh with the exclusion of the urban area;

(xi) Schedule means schedule to this Act;

(xii) Scheme means a water supply scheme initiated under section 3;

(xiii) Urban area means the towns specified in the section 3;

(xiv) Water rate means the charge for the time being levied or that may be levied in future for water supplied to a consumer, by a water supply schemes managed directly by the Government or by beneficiary to whom the scheme may be entrusted.

2 Subs, 2 for the original cl. By A.O. 1973.

3. Water Supply Scheme :-

The State Government may, from time to time, initiate drinking

water supply schemes for the benefit of the public in rural and urban areas in Himachal Pradesh and may also maintain and improve the existing water supplies.

4. Recovery of cost :-

(1) The State Government shall, in the first instance, spend the entire amount on all the schemes and on the improvement of the existing water supplies in Himachal Pradesh and shall recover from the beneficiaries or consumers, as the case may be, in the manner hereinafter provided,-

(a) 25 per cent of the capital cost and interest thereon in respect of urban water supply schemes ;

(b) 121/2 percent of the capital cost and the interest thereon in respect of rural water supply schemes.

(2) The cost of maintenance and replacement of water supply scheme shall also be recovered by the State Government from the beneficiaries or consumers, as the case may be, and in the manner hereinafter provided.

(3) The rate of interest on the capital cost may be determined by the State Government from time to time.

5. Levy of water rates :-

(1) The State Government shall levy a water rate from time to time, to recover the capital cost, as specified in clauses (a) and (b) of subsection (1) of section 4, and the cost of maintenance and replacements and interest thereon, and such water rate shall be payable by the consumer in whose name the connection is registered:

Provide that the water rate shall not exceed one rupee per thousand gallon of water for domestic use and two rupees per thousand gallons of water for commercial use: Provided further that the water rate in the case of pumped water supply may be double the water rate mentioned in the first proviso.

(2) The water rate shall be levied in consultation with a committee³ appointed for this purpose by the State Government in the prescribed manner.

(3) The recovery of the water charges shall be effected from the individuals on the basis of flat rate or on the basis of metered connections. (4) The water rate levied shall, if not paid when due, be recovered as if it were an arrear of land revenue.

3 The Committee appointed vide Not, No. 5-14/69/P.W.-B, dated 17th October, 1975, published in R.H.P. Extra., date 23rd October, 1975, P. 1507-1508, read with Not, of same No., dated 17th December, 1975, published in R.H.P., dated 27th December, 1975, P. 1709.

6. Handling over of water supply schemes :-

(1) Where a local authority is prepared to take over and maintain any scheme as a beneficiary, the State Government shall hand over the development, management or control of such scheme to such local authority provided that it deposits with the Government, its share of capital cost and interest thereon payable under clauses (a) and (b) of sub-section (1) of section 4, as the case may be, and cost of maintenance and replacement payable under sub-section (2) of section 4, as worked out and due on the date of handing over.

Provided that the local authority may be allowed by the Government to pay the amount aforesaid in such number of yearly instalments not exceeding twenty as the Government may deem proper and in such a case, the development, management or control of the scheme to the local authority shall not be handed over until such local authority gives an undertaking in writing to pay the amount by instalments as allowed.

(2) The local authority, which takes over a scheme under sub-section (1) of this section, shall fix water rate as it considers necessary and shall be responsible for the efficient management of such scheme.

(3) The water rate that the local authority may fix shall, in no case, exceed the maximum as provided in the provisos to sub-section (1) of section 5.

(4) The water rate levied by the State Government, if any, shall cease to have effect on the fixation of such rate by the local authority.

7. General control by the State Government :-

(1) All schemes taken over by beneficiaries under section 6 shall be subject to the general superintendence and control of the State Government and the working of the scheme shall be liable to periodical inspection by an agency of the State Government in the prescribed manner.

(2) Should a beneficiary be incompetent to perform, or persistently make default in the performance of the duties imposed on it by or

under this Act, or exceed or abuse its powers, or fail or neglect to maintain the scheme in an efficient manner, the State Government may, by notification in which the reasons for the so doing shall be stated, take back the development, management, or control of the scheme from the beneficiary:

Provided that before the notification mentioned in sub-section (2) is made, the beneficiary shall be given a reasonable opportunity in the prescribed manner of showing cause against the action proposed to be taken.

(3) When the development, management and control is so taken back, the following consequences shall ensure:-

(a) the development, management and control of the scheme shall, from the date of the notification, vest in the State Government;

(b) the water rate levied by the beneficiary shall continue to be operative until substituted by a fresh water rate fixed by the State Government.

(4) The State Government shall review the position, at such intervals as may be prescribed, but which shall not be less than one year, and may if it shall think fit, at any time, re-entrust the scheme to the beneficiary.

8. Liability of consumer :-

(1) Any consumer who has a water connection registered in his name shall be liable to pay a water rate to the beneficiary in case a scheme has been handed over to that beneficiary for development, management or control of a water supply scheme.

(2) In case there is no beneficiary and a water supply scheme is managed by the State Government directly, the consumer shall be liable to pay the water rate to the State Government.

9. Powers of State Government to modify the schedule :-

The State Government shall have the power to add to, amend, vary or rescind the schedule.

10. Offences under the Act :-

(1) Whoever, without proper authority, and voluntarily, does any of following acts, that is to say:-

(a) corrupts or fouls the water of any water supply scheme so as to render it less fit for the purpose for which it is ordinarily used;

(b) destroys, damages, alters, obstructs or injures, any dam, well,

embankment, sluice, reservoir, pipe, tap, structure or other works constructed, maintained or controlled by the State Government, or by a beneficiary for purification, storage or supply of water under a water-supply scheme;

(c) violates any rule made under this Act, for breach whereof, a penalty may be incurred, shall be liable on conviction before a Magistrate of such class as the State Government directs in this behalf in the prescribed manner, to a fine not exceeding five hundred rupees or to imprisonment not exceeding one month, or to both.

(2) Nothing herein contained shall prevent any person from being prosecuted under any other law for any offence punishable under this Act, provided that no person shall be punished twice for the same offence.

(3) Nothing herein contained shall prevent the State Government or the beneficiary, as the case may be, from recovering damages from the person who commits any of the acts mentioned in sub-section (1) of this section.

11. Power to make rules :-

(1) The State Government may make rules⁴ for carrying out the purposes of this Act.

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

(a) the principles and conditions on which the scheme under section 3 shall be initiated;

(b) the time and manner of the recovery of capital cost under section 4;

(c) appointment of a committee under section 5;

(d) matters required to be considered by the committee appointed under section 5 for ensuring the efficient management by the beneficiary of water supply schemes under section 6; and

(e) any other matter which is to be, or may be, prescribed.

(3) Every rule made, under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect,

as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

4 The Rules framed vide Not, No. dated the repro at P.,

12. Rights of Municipal Committee :-

The provisions of this Act shall not affect the rights of the Municipal Committees enjoyed by them under [the H.P. Municipal Act, 1968 (19 of 1968)]⁵.

5 Subs. for "the Punjab Municipal Act, 1911, as in force in Himachal Pradesh by A.O. 1973.

13. Repeal and saving :-

(1) The Himachal Pradesh Water Supply Act, 1956, (15 of 1956) as in force in the areas comprised in Himachal Pradesh immediately before 1st November, 1966, is hereby repealed.

(2) Notwithstanding the repeal of the Act under sub-section (1), any thing done or any action taken, including any orders, notifications issued and rules made in exercise of the powers conferred by or under the said Act shall, to the extent of being consistent with the provisions of this Act, be deemed to have been done or taken in exercise of the corresponding powers conferred by or under this Act.