

THE KHYBER PAKHTUNKHWA WATER ACT, 2020
(KHYBER PAKHTUNKHWA ACT NO.XXV OF 2020)

CONTENTS
PREAMBLE
SECTIONS

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II

KHYBER PAKHTUNKHWA WATER RESOURCES COMMISSION

Khyber Pakhtunkhwa Water Resources Commission.
Power and duties of the Commission.

Working of the Commission.

ed

Director General of the Commission.

CHAPTER III
REGULATIONS OF WATER AND SEWERAGE SERVICES

7. Khyber Pakhtunkhwa Water Resources Regulatory Authority.

8. Duties and powers of the Authority.
9. Director General of the Authority.

CHAPTER IV

WATER SERVICE PROVIDERS AND SEWERAGE SERVICE PROVIDERS

10. Water Service providers and Sewerage Service providers.
11. Enforcement orders.
12. Register of service providers.

13. Power to assign services.

15.
16.
17.
18.
19.
20.
21.
22.
23,
24.
25.
26.
27.
28.
29.

30.
31.
32.
33,
34,
35.
36.
37.

CHAPTER V

WATER SUPPLY

Duties of water service providers.

Duty to provide supplies for domestic purposes.

Supply of water for industrial purposes.

Duty to supply water for other public purposes.

Constancy and pressure of water supplies.

Quality and sufficiency of water supplies.

Power to require additional measures for ensuring quality of water.

Power to disconnect service pipes and cut off supplies.

Offence of supplying water unfit for human consumption.

Provision of water where piped supplies are insufficient or are unwholesome.

Permission to abstract water directly.

Offences of contaminating, wastage and misuse of water.

Prevention of contamination and waste etc.

Powers to prevent damage, contamination and waste etc.

Standards of wholesomeness of water.

Maps of water mains etc.

CHAPTER VI

PROVISION OF SEWERAGE SERVICES

Sewerage functions.

Standards of performance.

Supply of sewerage services for domestic purposes.

Performance of sewerage functions by local authorities etc.

Trade effluent.

Power to disconnect connection for trade effluent.

Permission to dispose of waste water or trade effluent directly.

Sewer maps.

38.
39.
40.
41.
42.

43.
44.
45.

46.
47.

CHAPTER VII

CHARGING FOR SERVICES PROVIDED BY SERVICE PROVIDERS

Powers of the service providers to charge.
Liability of occupiers etc. to pay charges.
Provisions relating to charging by volume.
Power of the Authority to modify charges.

Offence of tampering with meters etc.

CHAPTER VIII

ABSTRACTION AND DISPOSAL APPROVALS

Abstraction approvals.

Disposal approvals.

Terms and conditions of approvals.

CHAPTER IX

WATER CONSERVATION DURING DROUGHTS

Drought orders.
Offences with regard to drought orders.

CHAPTER X

DUTIES WITH REGARD TO ENVIRONMENTAL AND RECREATIONAL PURPOSES

48.
49.
50.
51.
52.

Environmental and recreational duties.

CHAPTER XI

CONTROLLED WATERS

Controlled waters.
Offences relating to controlled waters etc.
Water protection zones.

Offences related to deposits and vegetation.

53.
54.
55.
56.
57.
58.
59.
60.

Power to investigate.
Prosecution of offences.
Harmony with other Laws.
Rules.

Regulations.

Removal of difficulties.
Indemnity.

Savings.

CHAPTER XII MISCELLANEOUS

First Schedule

Second Schedule

Third Schedule

THE KHYBER PAKHTUNKHWA WATER ACT, 2020
(KHYBER PAKHTUNKHWA ACT NO.XXV OF 2020)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of Khyber Pakhtunkhwa (Extraordinary), dated the 24/07/2020).

AN
ACT

to comprehensively manage and regulate water resources in the Khyber Pakhtunkhwa in the interest of conservation and sustainability.

It is expedient to provide for comprehensive management of all water resources in the Khyber Pakhtunkhwa and to regulate their use in the interest of conservation and sustainability and matters connected with and ancillary thereto;

It is hereby enacted by the Provincial Assembly of the Khyber Pakhtunkhwa as follows:

CHAPTER I
PRELIMINARY

1. Short title, extent and commencement.— (1) This Act may be called the Khyber Pakhtunkhwa Water Act, 2020.

(2) It extends to whole of the Province of the Khyber Pakhtunkhwa.

(3) It shall come into force in such areas and on such dates as the Irrigation Department with the approval of Chief Minister may specify and different areas or dates may be specified for different provisions of this Act except section 45 which shall come into force at once.

2. Definitions— In this Act, unless the context otherwise requires, the following expressions shall have the meanings as respectively assigned to them, that is to say,-

(a) "Authority" means the Khyber Pakhtunkhwa Water Resources Regulatory Authority established under section 7 of this Act;

(b) "authorized functionary" means a public servant authorized by the Commission for the purpose of section 17 or 28 of this Act;

(c) "Commission" means the Khyber Pakhtunkhwa Water Resources Commission established under section 3 of this Act;

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“company” means a company established under the Companies Act, 2017 (Act XIX of 2017) or any other law for the time being in force;

“controlled waters” means the waters as defined in section 49 of this Act;

“Director General” means the Director General of the Commission or the Authority, as the case may be;

“Government” means the Government of the Khyber Pakhtunkhwa;

“local authority” means a,-

(i) land control authority established by law for the time being in force to regulate or manage land use;

(ii) a local government;

(iii) an industrial estate;

(iv) a developmental authority; or

(v) company set up by the Government to provide land related services;

“local government” means a local government established under the Khyber Pakhtunkhwa Local Government Act, 2013 (Khyber Pakhtunkhwa Act No. XXVIII of 2013);

“meter” means any approved apparatus for measuring or showing the volume of water supplied to, or of effluent discharged from any premises;

“person” includes a service provider, an authority or a company;

“prescribed” means prescribed by rules or regulations made under this Act;

“rules” mean the rules made under this Act;

“regulations” mean the regulations made under this Act;

“Schedule” means a Schedule appended to this Act;

“service provider” means a provider of water or sewerage services or, as the case may be, both services appointed under section 10 of this Act; and

“technical assessor” means a person appointed as technical assessor under section 53 of this Act;

“trade effluent” means the effluent from industrial premises as defined in section 34 of this Act; and

“wholesome” in relation to water means a water which meets the standards as laid down under section 28 of this Act.

CHAPTER II
KHYBER PAKHTUNKHWA WATER RESOURCES COMMISSION

3. Khyber Pakhtunkhwa Water Resources Commission.— (1) As soon as may be, but not later than six months of the commencement of this Act, Government shall establish the Khyber Pakhtunkhwa Water Resources Commission to carry out functions assigned or transferred to it under this Act.

(2) The Commission shall comprise the following:

(a) Chief Minister, Khyber Pakhtunkhwa; Chairman

(b) Minister for Forestry, Environment and Wildlife Member Department, Khyber Pakhtunkhwa;

(c) Minister for Public Health Engineering Department, Member Khyber Pakhtunkhwa;

(d) Minister for Agriculture, Livestock and Co- Member

operation Department, Khyber Pakhtunkhwa;

(e) Minister for Industries, Commerce and Technical Member Education Department, Khyber Pakhtunkhwa;

(f) Minister for Irrigation Department, Khyber Member Pakhtunkhwa;

(g) Minister for Local Government, Elections and Rural Member

Development Department, Khyber Pakhtunkhwa;

(h) Chief Secretary, Khyber Pakhtunkhwa; Member

(i) Secretary to Government, Irrigation Department Member Khyber Pakhtunkhwa;

(j) Secretary to Government, Local Government, Member

Elections and Rural Development Department;

(k) Secretary to Government Forestry, Environment, Member and Wild life Department;

(l) Secretary to Government, Agriculture, Livestock Member

and Co-operation Department;

(m) Secretary to Government, Health Department; Member

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Secretary to Government, Industries, Commerce and
Technical Education Department;

Secretary to Government, Finance Department;

Secretary to Government, Public Health Engineering
Department;

two water experts to be nominated by Chairperson;

one environmental expert to be nominated by
Chairperson;

one public health expert to be nominated by
Chairperson;

President of Khyber Pakhtunkhwa Chamber of
Commerce and Industry; and

Director General of the Commission;

Member

Member

Member

Members

Member

Member

Member

Member cum
Secretary

(3) All expert members of the Commission shall be nominated for such period, in
such manner and on such terms and conditions as may be prescribed.

(4) Commission may co-opt any other person as it may deem appropriate.

(5) Every member of the Commission shall attend the proceedings of the Commission in person.

4. Power and duties of the Commission.— (1) It shall be the duty of the Commission to take all such policy decisions as it may, from time to time, consider necessary or expedient for

the purpose of-

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conserving, redistributing or otherwise augmenting water resources in the

Khyber Pakhtunkhwa;

allocating water resources for domestic, agricultural, ecological, industrial or other purposes in different areas of the Khyber Pakhtunkhwa; and

securing the proper use of water resources in the Khyber Pakhtunkhwa.

(2) Nothing in this section shall be construed as relieving any water service provider of the obligations to develop water resources for the purpose of any duty imposed on it by virtue

of this Act.

(3) Without any prejudice to the provisions of sub-section (1), the Commission shall

also-

(a) maintain, improve and develop wildlife and fisheries in bodies of water from which water is drawn or into which it is discharged;

(b) establish an Advisory Committee, having such composition as may be prescribed, for advising it on maintenance and development of water resources, wildlife, fisheries, aquaculture, flora and fauna.

(4) Subject to provisions of this Act and the rules, the Commission shall determine its own procedure.

5. Working of the Commission.— (1) The Commission shall meet at least once every six months.

(2) The meetings of the Commission shall be chaired by the Chairperson and in his absence by such member as the Chairperson may nominate in this behalf.

(3) The Commission shall, on yearly basis, determine the allocation of water for domestic, agricultural, industrial, ecological and other purposes.

(4) The quorum for a meeting of the Commission shall be twelve members out of which at least three shall be amongst the expert members.

6. Director General of the Commission — (1) The Commission shall have a Director General, who shall be appointed in the prescribed manner.

(2) The Director General shall be responsible for the due discharge of the functions of the Commission under this Act.

(3) The Director General shall be assisted in his work by such number of officers and staff as Government may, from time to time, determine.

CHAPTER III REGULATIONS OF WATER AND SEWERAGE SERVICES

7. Khyber Pakhtunkhwa Water Resources Regulatory Authority.— (1) As soon as may be, but not later than six months of the commencement of this Act, Government shall establish Khyber Pakhtunkhwa Water Resources Regulatory Authority for the purposes of carrying out the functions conferred on it by this Act or by any other law for the time being in force.

(2) The Authority shall consist of the following:

(a) Additional Chief Secretary, Planning and Chairman Development Department, Khyber Pakhtunkhwa;

(b) Secretary to Government, Irrigation Department; Vice Chairman

(c) Chief Engineer, Public Health Engineering Member

Department;

(d) Secretary, Local Council Board, Khyber Member
Pakhtunkhwa;

(e) Director General, Environmental Protection Agency, Member
Khyber Pakhtunkhwa;

(f) Director General, Health Department; Member

(g) Director Industries and Commerce, Khyber Member
Pakhtunkhwa;

(h) two water experts to be nominated by the Members

Chairperson in the prescribed manner;

(i) two public health experts to be nominated by the Members
Chairperson in the prescribed manner; and

Gj) Director General of the Authority. Member cum
Secretary

(3) All expert members of the Authority shall be nominated for such period, in such manner and on such terms and conditions as may be prescribed.

(4) Authority may co-opt any other person as it may deem appropriate.

(5) Every member of the Authority shall attend the proceedings of the Authority in person.

8. Duties and powers of the Authority — (1) The Authority shall-

(a) ensure that the service providers discharge their duties and perform their functions in accordance with the provisions of this Act or any other law for the time being in force; and

(b) approve, determine or revise tariffs for water and sewerage service providers, if deemed necessary, in the manner prescribed.

(2) The Authority shall exercise such powers and perform such duties as may be prescribed in order to-

(a) further the consumers objective and interest ;

(b) ensure that the functions of water service provider and of a sewerage service provider are properly carried out;

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secure that bodies or companies holding appointments as water service provider or sewerage service provider are able to finance the proper carrying out of water and sewerage services under this Act;

ensure the recovery of cost of services and determine subsidies if so required;

ensure that the activities authorized under the approvals granted hereunder for water abstraction or water disposal are properly carried out in addition to any other duty imposed for the said purposes under any other law for the time being in force;

promote economy and efficiency on the part of bodies or companies holding an appointment as a service provider;

secure that no undue preference is shown, and that there is no undue discrimination in the fixing, by such companies, of water and drainage charges;

ensure that the interests of every person who is a customer or, as the case may be, a potential customer are protected in respects of fixing and recovery of tariff by that service provider in respect of:

(i) charges of any services provided in the course of carrying out functions of a service provider; and

(ii) amounts of any other description which such a service provider is authorized by or under any law to require such person to pay; and

ensure that the interests of every such person are protected as respects the other terms on which any services are provided and as respects the quality of those services.

(3) For the purpose of clause (a) of sub-section (2), the Authority shall have regard to the interests of among other persons, of-

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those who are disabled or chronically sick or of an old age;
those with low incomes;

those residing in rural areas; and

customers of companies, holding an appointment of service provider, whose premises are not eligible to be supplied by an approved water supplier.

(4) In discharge of its functions, the Authority may conduct public hearings and receive comments and information as may be prescribed.

(5) For the purpose of this section the Authority shall have the same powers as are vested in the Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of the following matters, namely:

- (a) summoning and enforcing attendance of any person and examining him on oath;
- (b) compelling production of documents;
- (c) receiving evidence on affidavits; and
- (d) issuing commission for the examination of witnesses.

9. Director General of the Authority.— (1) The Authority shall have a Director General, who shall be appointed in the prescribed manner.

(2) The Director General shall be responsible for the due discharge of the work of the Authority.

(3) The Director General shall be assisted in his work by such number of officers and staff as Government may, from time to time, determine.

(4) Authority may create special departments and wings within the Authority for smooth discharge of its functions under this Act or rules.

CHAPTER IV WATER SERVICE PROVIDERS AND SEWERAGE SERVICE PROVIDERS

10. Water Service providers and Sewerage Service providers.— (1) Commission may appoint a government department, an agency, organization, a company, a local government or a statutory authority to be the water service provider or sewerage service provider for any area.

(2) Where the Commission appoints a government department, agency, organization a company or a statutory authority, not under the control of the relevant local government, to be a service provider for any area, it shall obtain prior permission from the relevant local government.

(3) Subject to the provisions of sub-section (4), the appointment of a government department, company, local government or a statutory authority to be a service provider shall be by an instrument in writing containing the appointment, including the terms and conditions thereof, and describing the area for which it is made.

(4) No government department, company, local government or statutory authority shall be appointed as a service provider beyond the area in which it may by law operate.

11. Enforcement orders.— (1) Where in the case of any service provider, the Authority is satisfied that:

(a) such service provider is contravening any condition of its appointment or any statutory requirement which is enforceable, and in relation to which it is the enforcement authority; or

(b) such service provider has contravened any such condition or requirement and there is an apprehension that such service provider may repeat the contravention-

the Authority shall by a provisional order make such provisions as may be required for the purpose of securing compliance with that condition or requirement.

(2) Where an order has been passed under sub-section (1), and its non-compliance is likely to have a serious impact on the provision of water or sewerage services including impact on health and hygiene of the public, the Authority shall inform the Government of such order and the consequences of its non-compliance. The Government shall thereafter issue necessary orders as it may deem appropriate.

(3) Before making a final order or confirming a provisional order, the Authority shall give a notice to the service provider:

(a) stating that it proposes to make a final order or confirm the provisional order and setting out the effect of the order; and

(b) setting out-

(i) the conditions or requirements for the purpose of securing compliance of such order;

(ii) the acts of omission or commission which in its opinion constitute or would constitute contravention of such conditions or requirements; and

(iii) any other fact which in its opinion justify the passing of such order.

(4) A final or provisional order-

(a) shall require the service provider, to which it relates, to do or not to do such things as are specified in the order;

(b) shall take effect at such time, being the earliest practicable time, as is determined by or under the order; and

(c) may be revoked or modified by the Authority or the Government.

(5) The obligation to service provider with a final or provisional order shall be a duty owed both to the Authority as well as to any person who may be affected by the contravention of such order.

12. Register of service providers.— The Authority shall, in the prescribed manner, maintain in paper as well as in electronic form, a register of the following information:

- (a) every appointment made under this Chapter;
- (b) every termination of any such appointment;
- (c) every variation of the area for which any service provider holds any such appointment;
- (d) the conditions of any appointment;
- (e) enforcement orders;
- (f) every undertaking given to and accepted by the Authority or the Government; and
- (g) details of abstraction approvals or disposal approvals granted to water service providers and sewerage service providers by the Commission.

13. Power to assign services — (1) Subject to the provisions of sub-section (2), the service provider may assign water or sewerage or, as the case may be, both services to a company registered for the purpose of provision of water or sewerage services or a local authority, temporarily or for a specified period, by way of a written agreement executed with the Authority.

(2) A service provider shall obtain prior permission of the Authority and the relevant local government before making an assignment, where the service provider is not the local government itself.

(3) An assignee shall act on behalf of the service provider and the service provider shall continue to be responsible for the due discharge of services in accordance with the provisions of this Act.

(4) Notwithstanding anything contained in the written agreement, the Authority may require the service provider to perform the services directly where it determines that the assignee is likely to fail or has failed to act according to the provisions of this Act.

CHAPTER V WATER SUPPLY

14. Duties of water service providers.— (1) Every water service provider shall develop and maintain an efficient and economical system of water supply within its area and to ensure that all such arrangements have been made for-

- (a) providing supplies of water to premises in that area and for making such supplies available to persons who demand them; and
- (b) for maintaining, improving and extending the water mains, pipes, appliances and other appurtenant.

(2) The Commission may, by regulations, prescribe such standards of performance in connection with the provision of water as in its opinion ought to be achieved, and such

regulations may provide that if a water service provider fails to meet a prescribed standard it shall pay such amount, as may be prescribed, to any person who is affected by the failure.

15. Duty to provide supplies for domestic purposes.— (1) Every water service provider shall ordinarily provide a water main to be used for supplies of water to a premises in a particular locality in its area, if so requested by a person who is entitled under sub-section (2) to receive water supply through such mains.

(2) The following persons shall be entitled to require the provision of water supply under sub-section (1):

(a) the owner of premises approved by the local authority;
(b) a housing society duly approved by the local authority;
(c) the concerned local government; or

(d) any other person as specified by the regulations.

(3) The water service provider shall not be in breach of his obligations under sub-section (1) if the applicant does not provide an undertaking to pay, to the water service provider, costs reasonably incurred in providing the main over a prescribed period of time.

(4) Any dispute between a water service provider and any other person, regarding costs to be paid, shall be referred to an arbitrator from the panel of arbitrators notified by the Authority whose decision, subject to sub section (5), shall be binding on both the parties.

(5) The Authority on its own motion shall have the power to revisit the decision of

the arbitrator.

16. Supply of water for industrial purposes— (1) Every water service provider shall provide a water main to be used for providing supplies of water to duly approved industrial premises in a particular locality if the water service provider is required to provide the main, by a notice, served upon the water service provider by one or more persons who are entitled under sub-section (2) to get water supply through the mains.

(2) The following persons shall be entitled to require the provision of water under sub-section (1):

(a) the owner of an industrial premises duly approved by the local authority;
(b) an industrial estate established by the Government; and
(c) the relevant local government.

(3) A water service provider shall not be required by virtue of this section to provide a new supply to industrial premises if:

(a) the supply of water requires him to incur unreasonable expenditure in carrying out works;

(b) it puts at risk the ability of the water service provider to meet any of its existing or probable future obligations to supply water for domestic or other purposes;

(c) there is a contravention in relation to the water fittings used or to be used in connection with the supply of water to those premises or with the use of water in those premises; and

(d) if arrangements of industrial premises for disposal of waste water or trade effluent from such premises are not in accordance with the provisions of this Act or the regulations made thereunder.

(4) The water service provider shall not be in breach of his obligations under subsection (1) if the applicant does not provide an undertaking to pay, to the water service provider, costs reasonably incurred in providing the main over a prescribed period of time.

(5) Any dispute between a water service provider and any other person regarding costs to be paid shall be referred to the arbitration of a single arbitrator by agreement between the water service provider and that person, and in default of such agreement by the Authority.

17. Duty to supply water for other public purposes.— (1) A water service provider shall, at the request of a sewerage service provider, local authority, an authorized functionary or the Authority, provide for such of its pipes as are of an appropriate capacity to supply water for cleansing sewers and drains, for cleansing and watering highways, for supplying any public pumps, baths or wash houses, for maintaining parks and green areas and for such other public purposes as may be necessary.

(2) A supply of water by a water service provider under this section shall be provided upon such terms as may be reasonable.

(3) The obligations of a water service provider under this section shall be enforceable through an enforcement order under section 11 of this Act.

18. Constancy and pressure of water supplies.— (1) It shall be the duty of every water service provider to cause the water in such of its water mains and other pipes, which are used for providing supplies of water for domestic purposes, to be run with such constancy and at such pressure as shall be required to maintain its wholesomeness or to cause it to reach such height as may be required by the Authority.

(2) Nothing in sub-section (1) shall impose any duty on a water service provider to maintain the constancy or pressure of any supply of water during any period during which it is reasonable for that supply to be cut off or get reduced for the purposes of carrying out any necessary works.

(3) The obligations of a water service provider under this section shall be enforceable under section 11 of this Act.

(4) Where a water service provider is in breach of a duty under this section, the water service provider shall be liable to a fine which may extend to rupees five hundred thousand or any other remedial measures on its own risk and cost as directed by the Authority.

(5) In any proceedings against any water service provider for an offence under sub-section (4), it shall be a defence for that service provider to show that it took all reasonable steps and exercised all due diligence to avoid the commission of the offence.

19. Quality and sufficiency of water supplies — (1) It shall be the duty of a water service provider that-

(a) while supplying water to any premises for domestic purposes to supply only water which is wholesome at the time of supply; and

(b) so far as reasonably practicable, ensure, in relation to each source or combination of sources from which it supplies water to premises for domestic purposes, that there is in general no deterioration in the quality of water.

(2) For the purposes of this section, water supplied by a water service provider to any premises shall not be regarded as unwholesome at the time of supply where it has ceased to be wholesome only after leaving the pipes laid and maintained by the water service provider.

(3) The obligations of a water service provider under this section shall be based on best endeavor and enforceable under section 11 of this Act.

(4) Where a water service provider is in breach of a duty under this section, the water service provider shall be guilty of an offence and liable, upon conviction, to a fine which may extend to rupees five hundred thousand or any other remedial measures on its own risk and cost as directed by the Authority.

20. Power to require additional measures for ensuring quality of water — (1) The Commission may, by regulations, require a water service provider to take all necessary steps for securing compliance with section 19 of this Act.

(2) Without any prejudice to the generality of the powers conferred under sub-section (1), the Commission may impose an obligation on a water service provider to-

(a) take all necessary steps for monitoring and recording whether the water which that water service provider supplies to premises for domestic purposes is wholesome at the time of supply;

(b) take all necessary steps for monitoring and recording the quality of water from any source, or combination of sources which that water service provider uses or is proposing to use for supplying water to any premises for domestic purposes;

(c) ensure that a source which that water service provider is using or is proposing to use for supplying water for domestic purposes is not so used

until all requirements for establishing the quality of water which may be supplied from that source have been complied with;

(d) keep records of localities within which all premises supplied with water for domestic purposes by that water service provider are normally supplied from the same source or combination of sources; and

(e) analyze water samples and to put in place internal arrangements in this respect and report such analysis.

21. Power to disconnect service pipes and cut off supplies — (1) Subject to the provisions of this section, a water service provider may disconnect a service pipe, which, for the purposes of providing supply of water to any premises, is connected with any water main of that water service provider or may otherwise cut off a supply of water to any premises if-

(a) it is reasonable for the disconnection to be made or the supply of water be cut off for the purposes of carrying out any necessary works;

(b) the occupier of the premises is liable to pay charges, due to the water service provider, in respect of the supply of water to such premises and has failed to pay such charges within a period of fifteen days of service of the notice requiring him to pay such charges; or

(c) the occupier of the premises is found liable for willful waste of water and has failed to adopt remedial measures to rectify the prevailing situation with respect to waste of water within a period of ten days beginning with the day after he is served with the notice requiring him to correct such situation.

(2) Where a water service provider exercises its power by virtue of clause (a) of sub-section (1), and effects a disconnection for the purpose of carrying out any necessary works, it shall owe a duty to the occupier of the premises to ensure that-

(a) such necessary works are carried out with reasonable dispatch; and

(b) only after an emergency water supply has been made available, whether or not through pipes, for domestic purposes, and any supply of water to such premises is not interrupted for more than twenty-four hours for the purpose of carrying out of those necessary works.

(3) Where a water service provider has served a notice under clause (b) of sub-section (1) on a person, who within the period of fifteen days of the receipt of such notice, furnishes a reply to such notice disputing his liability to pay the charges demanded, the water service provider shall not exercise its power to disconnect the water supply unless so authorized by the Authority after determination of liability or by order of a court.

(4) Where a water service provider has cut off supply of water under clause (c) of sub-section (1), it shall restore such supply upon an undertaking by the occupier of the premises

that he was not involved in willful waste of water or, as the case may be, he shall not indulge in willful waste of water in future.

(5) Before restoring a supply under sub-section (4), the water service provider may, after giving him a reasonable notice, make an inspection of the premises of the occupier to assure that sufficient remedial measures have been taken to prevent waste of water.

(6) If a water service provider disconnects a service pipe or otherwise cuts off supply of water to any premises in a case in which it has no power to do so under this section or fails to connect such service pipe or restore such supply, it shall be guilty of an offence and liable, upon conviction, to a fine which may extend to rupees one hundred thousand or any other remedial measures on its own risk and cost as directed by the Authority.

22. Offence of supplying water unfit for human consumption.— (1) Subject to sub-section (2), where a water service provider supplies water by means of pipes to any premises and that water is unfit for human consumption, the water service provider shall be guilty of an offence and liable, upon conviction, to a fine which may extend to rupees five hundred thousand or any other remedial measures on its own risk and cost as directed by the Authority.

(2) Where a person authorized to stop a supply of water finds that the supply is unfit for human consumption and continues to authorize supply of such unfit water, the person shall be guilty of an offence and liable, upon conviction, to a fine which may extend to rupees fifty thousand or imprisonment which may extend to three months or bother any other remedial measures on its own risk and cost as directed by the Authority.

(3) In any proceedings against a water service provider for an offence under this section, it shall be a defense for that service provider to show that it-

(a) had no reasonable grounds for suspecting that the water was to be used for human consumption; and

(b) took all reasonable steps and exercised all due diligence in securing that the water was fit for human consumption on leaving its pipes or was not used for human consumption.

23. Provision of water where piped supplies are insufficient or are unwholesome.— (1) Where-

(a) it is not practicable, at reasonable cost, for a water service provider to provide wholesome water in pipes or to maintain such a supply of wholesome water, to any particular premises in its area as is sufficient for domestic purposes;

(b) it is practicable, at reasonable cost, for the water service provider to provide such a supply of wholesome water for domestic purposes to those premises otherwise than in pipes;

(c) the insufficiency or unwholesomeness of the supply of water for domestic purposes is such as to cause a danger to life or health; and

(d) the local authority in whose area those premises are situated notify the water service provider of that danger and require the water service provider to provide a supply otherwise than in pipes;

it shall be the duty of the water service provider, for such period as may be required by the local authority and where it is practicable at reasonable cost, to provide water otherwise than in pipes.

(2) In this section, reference to the provision of a supply of water to any premises otherwise than in pipes shall have effect, in a case in which it is practicable for the water service provider to provide a supply of water, whether or not in pipes, at reasonable cost, to a place within a reasonable distance of those premises, as including reference to the provision of a supply of water to those premises.

24. Permission to abstract water directly — (1) Where-

(a) it is not practicable, at reasonable cost, for a water service provider to supply water in pipes; or

(b) ground water is not unwholesome such as to cause any danger to life or health of a person;

the water service provider may allow a person, through special permission, to abstract water from within his premises or from an area in close proximity thereof for his domestic purposes only.

(2) The special permission issued under sub-section (1) shall be granted in accordance with any conditions that the Commission may impose on such special permission specifically or generally.

(3) Water abstracted under special permission under sub-section (1), shall form part of the overall abstraction limit granted to a water service provider under an abstraction approval issued by the Commission.

25. Offences of contaminating, wastage and misuse of water.— (1) If any person who is the owner or occupier of any premises to which a supply of water is provided by a water service provider, intentionally or negligently, causes or suffers any water fitting for which he is responsible to be or remain so out of order, so in need of repair or so constructed or adapted or to be used-

(a) that water in a water main or other pipes of a water service provider or in a pipe connected with such water main or pipe, is or is likely to be contaminated by the return of any substance from those premises to that main or pipe;

(b) that water that has been supplied by the water service provider to those premises is or is likely to be contaminated before it is used; or

(c) that water so supplied is or is likely to be wasted, or having regard to the purposes for which it is supplied, misused or unduly consumed;

that person shall be guilty of an offence and liable, upon conviction, to a fine not exceeding rupees one hundred thousand or any other remedial measures on its own risk and cost as directed by the Authority.

(2) Any person who uses any water supplied to any premises by a water service provider for a purpose other than the one for which it is supplied shall, unless the other purpose is the extinguishment of fire, be guilty of an offence and liable, upon conviction, to a fine not exceeding rupees two hundred thousand or any other remedial measures on its own risk and cost as directed by the Authority.

26. Prevention of contamination and waste etc— (1) The Commission may, by regulations, make such provisions as it considers appropriate for any of the following purposes-

(a) securing that water in a water main or other pipes of a water service provider is not contaminated, and that its quality and suitability for particular purposes is not prejudiced, by the return of any substance from any premises to that main or pipe;

(b) preventing the wastage, undue consumption and misuse of any water at any time after it has left the pipes of a water service provider for the purpose of being supplied by that water service provider to any premises; and

(c) securing that water fittings installed and used by persons to whom water is or is to be supplied by a water service provider are safe, minimize wastage and do not cause or contribute to erroneous measurement of any water or the reverberation of any pipes.

(2) Without prejudice to the generality of the power contained in sub-section (1), regulations made under this section may also make provision for the following matters:

(a) forbidding installation, connection or use of pipe related fittings if they have not been approved under the regulations or if they contravene the regulations;

(b) requiring the fittings for the purpose of provision made by virtue of sub-section (2)(a) to be of such a size, nature, strength or workmanship, to be made of such materials or in such a manner or to conform to such standards as may be prescribed or approved under the regulations;

(c) imposing such other requirements as may be prescribed with respect to the installation, arrangement, connection, testing, disconnection, alteration

(d)

(e)

and repair of the fittings and with respect to the materials used in their manufacture;

according, refusing and revoking, by authorized persons, of the approvals required for the purposes of regulations; and

such approvals and revocations as capable of being made under this Act.

(3) Without any prejudice to the provisions of sub-sections (1) and (2), the regulations under this section may also:

(a)

(b)

(c)

(d)

(e)

(f)

impose separate or concurrent duties with respect to the enforcement of regulations;

confer powers on a water service provider or a local authority to carry out works and take other steps, in prescribed circumstances, for remedying any contravention of the regulations;

provide for the recovery by a water service provider or local authority of expenses reasonably incurred by the water service provider or local authority in the exercise of any powers conferred under sub section (3) (b) above;

provide that contravention of a regulations shall constitute an offence punishable with fine not exceeding rupees one hundred thousand or any other smaller sum;

require the disputes arising because of application of a regulation be referred to arbitration in suitable cases; and

provide for a right of appeal in appropriate cases.

27. Powers to prevent damage, contamination and waste etc — (1) Without prejudice to any power conferred upon the water service provider by regulations made under section 20 of

this Act, where a water service provider providing a supply of water to any premises, has reason

to believe that:

(a)

(b)

(c)

the damage to person or property is being or is likely to be caused by any damage to, or defect in, any water fitting used in connection with the supply of water to those premises which is not a service pipe belonging to the water service provider;

the water in a water main or other pipe of the water service provider is being or is likely to be contaminated by the return of any substance from those premises to that main or pipe;

the water which is in any pipe connected with any such main or other pipe or which has been supplied by the water service provider to those premises is being or is likely to be contaminated before it is used; or

(d) the water which has been or is to be so supplied is being or is likely to be wasted or, having regard to the purposes for which it is supplied, misused or unduly consumed;

the water service provider may exercise the power conferred upon it by subsection (2) in relation to such premises.

(2) The powers of the service provider in relation to sub-section (1) are-

(a) where the case constitutes an emergency, power to disconnect the service pipe or otherwise to cut off the supply of water to those premises; and

(b) in any other case, power to serve notice on the occupier of the premises requiring him to take such steps as may be specified in the notice as necessary to secure the system of the water service provider and that damage, contamination, wastage, misuse or undue consumption ceases or, as the case may be, does not occur.

(3) Where a water service provider, in exercise of the power conferred under clause

(a) of sub-section (2), disconnects a service pipe to any premises or otherwise cuts off any supply of water to any premises, the water service provider shall, as soon as reasonably practicable after the supply is disconnected or cut off, serve a notice on the person specifying the steps which that person is required to take before the water service provider restores the water supply to that premises.

(4) The steps specified in the notice under sub-section (3) shall be the steps necessary to secure that, as the case may be:

(a) the damage, contamination, wastage, misuse or undue consumption; or

(b) the likelihood of damage, contamination, wastage, misuse or undue consumption,

shall not recur if the supply is restored, and a water service provider which fails, without reasonable excuse, to serve the notice in accordance with the requirements of sub-section (4) shall be guilty of an offence and liable, upon conviction through a summary trial, to a fine not exceeding rupees ten thousand.

(5) A notice served for the purposes of clause (b) of sub-section (2) shall:

(a) specify the period, not being less than seven days of the service of the notice, within which the steps specified in the notice are to be taken by the consumer; and

(b) set out the powers of the water service provider under sub-section (6) and (7).

(6) Where a water service provider has served a notice under clause (b) of sub-section (2) in relation to any premises, and:

(a) the case becomes an emergency; or

(b) the premises appears to be unoccupied and the steps specified in the notice are not taken before the expiry of the period so specified;

the water service provider may disconnect the service pipe to those premises or otherwise cut off the supply of water to those premises; and sub-sections (3) and (4) shall apply where a water service provider exercises its power under this sub-section as they apply where such a service provider exercises its power by virtue of under clause (a) of sub-section (2).

(7) Where, in a case not falling within clause (a) or clause (b) of sub-section (6), any steps specified in a notice served by the water service provider under clause (b) of sub-section (2) have not been taken by occupier of the premises by the end of the period so specified, the water service provider shall have power to take such steps itself, and subject to sub-section (8), to recover any expenses reasonably incurred by the water service provider in taking those steps from the occupier on whom the notice was served.

(8) Where any steps are taken by virtue of sub-section (7) and it is shown that, in the circumstances of the case, those steps were not necessary as mentioned in subsection (2) or, as the case may be, sub-section (4), such water service provider:

(a) shall not be entitled to recover any expenses incurred by it in taking those steps; and

(b) shall be liable to pay to any other person who took any of those steps an amount equal to any expenses reasonably incurred by that person in taking any of those steps.

28. Standards of wholesomeness of water.— (1) The Commission may, by regulations, make provisions that the water supplied to any premises is or is not to be regarded as wholesome for purposes of this Chapter, if it satisfies or, as the case may be, fails to satisfy such provisions as may be prescribed.

(2) Without prejudice to the generality of sub-section (1), regulations under this section may, for the purpose of determining the wholesomeness of any water shall:

(a) provide general requirements as to the purposes for which the water is to be suitable;

(b) provide specific requirements as to the substances that are to be present in or absent from the water, and as to the concentrations of substances which are or are required to be present in the water;

(c) provide specific requirements as to other characteristics of the water;

(d) provide that the question whether prescribed requirements are satisfied may be determined by reference to such samples;

(e) enable the Commission to authorize such relaxations of and departures from the requirements referred to in clause (a) above, and to make any such authorization subject to one or more conditions which it considers

appropriate, and to modify or revoke any such authorization or conditions; and

(f) enable the Commission to authorize a local authority, Authority or an authorized functionary to, either instead of the Commission or concurrently with it, to exercise any power conferred on the Commission by regulations framed under clause (e) of sub-section (2) above.

29. Maps of water mains etc.— (1) Subject to sub-section (4), it shall be the duty of the Authority and every water service provider to keep record of:

(a) every resource main, water main or discharge pipe used by the water service provider; and

(b) any other underground works, other than a service pipe, which are owned or operated by the water service provider.

(2) It shall be the duty of the Authority and of every water service provider to ensure that the contents of any records for the time being kept by it under this section are updated and available, at all reasonable times, for inspection by the public free of charge at an office of the Authority or as the case may be of the water service provider.

(3) Any information which is required under this section to be made available, by the Authority or a water service provider, for inspection by the public shall be so made available in the form of a map.

(4) For the purposes of determining whether any failure to make a modification of any records kept under this section constitutes a breach of the duty, imposed by sub-section (1), above, that duly shall be taken to require any modifications of the records to be made as soon as reasonably practicable after the completion of such works, which make the modification necessary; and where records kept under this section are modified, the date of the modification and of the completion of the works making the modification necessary shall be incorporated in the records.

(5) The duties of a water service provider under this section shall be enforceable under section 11 of this Act.

CHAPTER VI

PROVISION OF SEWERAGE SERVICES

30. Sewerage functions.— (1) Every sewerage service provider shall:

(a) provide, improve, rehabilitate and extend such a system of public sewers, whether inside its area or elsewhere, and so to cleanse and maintain such sewers as to ensure that such area is and continues to be effectually drained; and

(b) make provision for the emptying of those sewers and for effectually dealing by means or sewage disposal works or otherwise with the content of those sewers.

(2) In performing its duty under sub-section (1), the sewerage service provider shall have regard to:

(a) its existing and future obligations to allow discharge of effluent into its public sewers; and

(b) the need to provide for the disposal of effluent which is so discharged.

31. Standards of performance.— (1) The Commission may by regulations prescribe the standards of performance for the provision of sewerage services.

(2) Without prejudice to the generality of the power conferred by subsection (1), the regulations may:

(a) include in a standard of performance, a requirement for a sewerage service provider to inform persons of their rights and duties by virtue of any such regulations; and

(b) provide for any dispute under the regulations to be referred to by either party to the Authority.

32. Supply of sewerage services for domestic purposes— (1) Every sewerage service provider shall provide a public sewer to be used for drainage of premises in a particular locality in its area if the sewerage service provider is required to provide the sewer by a notice served on the sewerage service provider by one or more persons who are entitled under sub-section (2) to require the provision of the sewer for that locality.

(2) The following persons shall be entitled to require the provision of a public sewer for any locality:

(a) the owner of a premises in that locality;
(b) a housing authority;

(c) the concerned local government; and
(d) any other person as specified by rules.

(3) The sewerage service provider shall not be in breach of his obligations under sub-section (1) if the applicant does not provide an undertaking to pay, to the sewerage service provider, costs reasonably incurred in providing the main over a prescribed period of time.

(4) Any dispute between a sewerage service provider and any other person in respect of cost to be paid shall be referred to the arbitration of a single arbitrator by agreement between the sewerage service provider and that person and in default of such agreement the dispute shall be finally decided by the Authority.

33. Performance of sewerage functions by local authorities etc — (1) A local authority may, in accordance with any arrangement which it has entered into for the purpose with any sewerage service provider, carry out sewerage functions on behalf of that service provider in relation to such area comprising the whole or any part of that local authority's relevant area with parts of any adjacent relevant areas of other relevant local authority, as may be specified in the arrangements.

(2) Arrangements entered into for the purposes of this section may contain any such provision as may be agreed between the relevant authority and the sewerage service provider but shall not affect the availability to any person, other than the relevant authority, of any remedy against the sewerage service provider in respect of the carrying out of the sewerage service provider's sewerage functions or of any failure to carry them out.

(3) Where arrangements entered into for the purposes of this section so provide, a relevant authority shall be entitled to exercise on behalf of a sewerage service provider any power which by or under this Act or any other law for the time being in force is exercisable by the sewerage service provider for the purposes of, or in connection with, the carrying out of the functions of the sewerage service provider.

34. Trade effluent.— (1) It shall be the duty of every sewerage service provider to provide a sewer to be used for the drainage of trade effluent to premises in a particular locality in its area if the sewerage service provider is required to provide the sewer by a notice served on the sewerage service provider by one or more persons who are entitled under subsection (2) to require the provision of the sewer for that locality.

(2) The following persons shall be entitled to require the provision of a pipe for discharge of trade effluent:

(a) owner of an industrial premises in a locality duly approved by the local authority; and

(b) an industrial authority managing industrial estates.

(3) The sewerage service provider shall not be in breach of his obligations under subsection (1) if:

(a) the person does not provide an undertaking to pay, to the sewerage service provider, costs reasonably incurred in providing the main over a prescribed period of time;

(b) the trade effluent is of a nature that shall make it difficult for the sewerage service provider to discharge its obligations to domestic consumers; or

(c) the trade effluent cannot be safely carried in the pipes of the sewerage service provider or needs to be carried separately for specialized treatment.

(4) Any dispute between a sewerage service provider and any other person regarding costs to be paid shall be referred to the arbitration of a single arbitrator by agreement between the

sewerage service provider and that person and in default of such agreement the dispute shall be finally decided by the Authority.

35. Power to disconnect connection for trade effluent — (1) A sewerage service provider may disconnect a pipe which carries trade effluent if:

- (a) it is reasonable for the disconnection to be made for the purposes of carrying out any necessary works; or
- (b) the occupier of the premises is liable to pay charges due to the sewerage service provider in respect of services to those premises and has failed to pay such charges within fifteen days beginning with the day after he is served with notice requiring him to do so.

(2) Where a sewerage service provider exercises its power by virtue of clause (a) of sub-section (1), it shall owe a duty to the consumer to secure:

- (a) that those works are carried out with reasonable dispatch; and
- (b) that no service is interrupted for more than seven days for the purpose of carrying out of those works.

36. Permission to dispose of waste water or trade effluent directly — (1) Where:

- (a) it is not practicable, at reasonable cost, for a sewerage service provider to provide sewerage pipes;
- (b) it is practicable and safe for the owner or occupier of industrial premises to drain waste water or trade effluent in pipes not owned or operated by the sewerage service provider; and
- (c) the local authority in whose area those premises are situated permits the sewerage service provider to allow discharge of waste water or trade effluent in pipes not owned or operated by the sewerage service provider.

the sewerage service provider may allow a person, by a special permission, to discharge waste water or trade effluent in those pipes.

(2) A special permission issued under sub-section (1) shall be granted in accordance with any conditions that the Commission may impose on such special permission specifically or generally.

37. Sewer maps.— (1) Subject to the provisions of sub-section (5), it shall be the duty of the Authority and every sewerage service provider to keep records of the location and other relevant particulars of:

- (a) every public sewer or disposal main operated by the sewerage service provider or other persons with the permission of the sewerage service provider; and

(b) any other underground works other than a service pipe which are owned or operated by the sewerage service provider.

(2) For the purposes of this section, the relevant particulars of a drain, sewer or disposal main, in addition to its location, shall also include particulars as to:

(a) whether it is a drain, sewer or disposal main and of the description of effluent for the conveyance of which it is or is to be used, and

(b) whether it is operated by sewerage service provider or, if it is not, whether it is operated with the permission of sewerage service provider.

(3) The records kept by a sewerage service provider under this section shall be kept separately in relation to the area of each local authority within whose area there is any drain, sewer, or disposal main of which that sewerage service provider is required to keep records.

(4) It shall be the duty of every sewerage service provider to:

(a) provide to the local authorities, without any fee, the copies of the contents of records kept under this section, and with copies of any modifications of those records, so as to ensure that every local authority to whose area any of the records relate are at all times informed of the contents of the record, for the time being, relating to their area; and

(b) ensure that the contents of all the records for the time being kept by the sewerage service provider under this section are available, at all reasonable times, for inspection by the public free of charge at any office of the sewerage service provider.

(5) Any information which is required to be kept by this section shall be so provided or made available in the form of a map.

(6) For the purposes of determining whether any failure to make a modification of any records kept under this section constitutes a breach of the duty, imposed by sub section (1) above which make the modification necessary; and where records kept under this section are modified, the date of the modification and of the completion of the works making the modification necessary shall be incorporated in the records.

(7) The duties of a sewerage service provider under this section shall be enforceable under section 11 of this Act.

CHAPTER VII

CHARGING FOR SERVICES PROVIDED BY SERVICE PROVIDERS

38. Powers of the service providers to charge.— (1) Subject to the provisions of this

Chapter and approval of the Authority, the powers of every service provider shall include the power to-

- (a) fix charges for any services provided in the course of carrying out its functions and, in the case of a sewerage service provider, charges to be paid in connection with the carrying out of its trade effluent functions; and
- (b) demand and recover charges fixed under this section from any person to whom that service provider provides services or in relation to whom it carries out trade effluent functions.

(2) The powers conferred under sub-section (1) shall be exercisable-

- (a) by service providers in the case of-

- (i) supply of water after taking into consideration the cost of abstraction, improvement in quality of water and protection of water from contamination till it is supplied to premises; and

- (ii) sewerage or waste water after taking into consideration the cost of carrying it, treating it and protecting soil and water from the waste water till it is treated; or

- (b) by or in accordance with agreements with persons to be charged.

39. Liability of occupiers etc. to pay charges— Except in so far as provision to the contrary is made by any agreement to which the service provider is a party-

- (a) supplies of water provided by a water service provider shall be treated for purposes of this Chapter as services provided to the occupiers, for the time being, of any premises supplied; and

- (b) sewerage services provided by a sewerage service provider shall be treated for the purposes of this Chapter as provided to the occupiers, for the time being, of any premises which are drained by a sewer or drain connecting, either directly or through an intermediate sewer or drain, with such a public sewer of the sewerage service provider as is provided for sewerage water or surface water or both.

40. Provisions relating to charging by volume.— (1) Where the Authority so requires, the service providers may install meters and make other provision in relation to the meters and the premises where these are installed.

(2) The Commission may, by regulations, make such provision as it considers appropriate with respect to the connection, disconnection, use, maintenance, authentication and testing of meters and with respect to any other related matter.

(3) Without prejudice to the generality of sub-section (2), the regulations may, among other things-

- (a) address the positioning, whether inside or outside of the building or other premises in relation to which the meter is to be used, of any meter or of

(b)

(c)

(d)

(e)

(f)

(g)

any pipes or apparatus appearing to any water service provider or sewerage service provider to be required for the purpose of facilitating the use of any meter;

make any other provision which appears to the Commission to be appropriate with respect to any such pipes or apparatus;

provide for a reading from a meter to be proved and for a reading from a meter to be such evidence of the volume of water supplied to, or of effluent discharged from, any premises;

fix the method of determining the amount of the charges to be paid where it appears that a meter has given, or may have given, an incorrect reading;

require a person who is not a service provider to pay the expenses incurred by a service provider in doing anything under the regulations or to pay contributions towards those expenses;

provide for the payment of compensation in respect of anything done by a service provider under the regulations; and

require disputes arising under the regulations to be referred to arbitration.

41. Power of the Authority to modify charges.— The Authority may, through a written order, modify the charges fixed or demanded by a service provider under section 38 of this Act, where it finds that a service provider has-

(a) not spread costs over a reasonable period of time;

(b) charged consumers unfairly;

(c) not acted in support of the consumer objective;

(d) not applied aquifer charges; and

(e) not charged as prescribed or levied by the Government.

42. Offence of tampering with meters etc.— (1) If any person-

(a) so interferes with a meter used by a service provider in determining the amount of any charges fixed in relation to any premises to prevent the meter from showing or from accurately showing the volume of water supplied to or of effluent discharged from those premises; or

(b) carries out any works which he knows are likely to affect the operation of

such a meter;

he shall be guilty of an offence and liable, on conviction, to a fine not exceeding rupees

fifty thousand.

(2) A person shall not be guilty of an offence under subsection (1) in respect of anything done by him with the consent of the service provider who uses the meter.

CHAPTER VIII
ABSTRACTION AND DISPOSAL APPROVALS

43. Abstraction approvals— (1) The approval to abstract water may be one of the following three types-

- (a) an approval to abstract water from one source of supply;
- (b) an approval to abstract water from one source of supply for the purpose of transferring to another source of supply; and
- (c) an approval to abstract water from one source of supply for the purposes of transferring to the same source of supply at another point.

(2) An approval to abstract water from one source of supply shall be of one or more of the following seven types-

- (a) an approval to abstract water for supply to consumers by a water service provider;
- (b) an approval to abstract water for agricultural purposes;
- (c) an approval to abstract water for domestic purposes;
- (d) an approval to abstract water for industrial purposes;
- (e) an approval to abstract water for mining purposes;
- (f) an approval to abstract water for ecological purposes; and
- (g) an approval to abstract water for any purpose not listed above.

(3) No person shall abstract water from controlled waters without an approval.

(4) Abstraction approvals shall be granted by the authorities listed in the First Schedule.

44. Disposal approvals.— (1) The approval for disposal of water may be one of the following four types-

- (a) an approval for disposal of naturally clean water into controlled waters;
- (b) an approval for disposal of sewage water into controlled waters;
- (c) an approval for disposal of trade effluent into controlled waters; and
- (d) an approval for disposal of any other water into controlled waters.

(2) No person shall dispose water into controlled waters without an approval.

(3) A disposal approvals shall be granted by the authorities listed in the Second Schedule.

45. Terms and conditions of approvals— (1) Every abstraction and disposal approval under this Act shall be in the prescribed form and shall be valid for a fixed duration of time, which may or may not be extendable.

(2) Every approval shall be subject to such terms and conditions as the Authority may prescribe.

(3) Every approval shall provide for the point at which abstraction and disposal shall take place.

(4) The rate to be charged for an abstraction and disposal approval shall be such as may be fixed by the Authority from time to time in the prescribed manner.

(5) The rates so charged shall be deemed to be Government dues and shall be recoverable as arrears of land revenue:

Provided that for the purposes of this sub-section, the Director General of the Authority or his nominee shall act as Collector Land Revenue.

(6) Until the establishment of Authority and appointment of Director General under this Act-

(a) Government may notify the rates for the purposes of this section; and

(b) Chief Minister may designate and authorize one or more officers of the Government for the purposes of recovery of levy and arrears under this section.

(7) All the charges, levies, or water rates assessed or collected before the commencement of this Act by or under the approval of the Government or any Authority or Agency of the Government shall be deemed to have been validly levied, assessed or collected under this Act and any arrears outstanding shall continue to be recoverable under this Act.

(8) Notwithstanding anything contained in this section, a disposal approval shall include the following conditions that-

(a) the disposal of water shall comply with applicable environmental standards; and

(b) the samples of disposed of water shall be collected and tested at suitable intervals as fixed by the Authority from time to time.

(9) Any person who knowingly contravenes the terms and conditions of an approval shall be guilty of an offence and liable, upon conviction, to a fine which may extend to rupees two hundred thousand.

CHAPTER IX

WATER CONSERVATION DURING DROUGHTS

46. Drought orders.— (1) Where the Commission is satisfied that by reason of an exceptional shortage of rain, a serious deficiency of water in any area exists or is likely to exist

then it may, by order, make such provisions as are authorized by this section, which appear to be expedient, with a view to meeting the deficiency.

(2) An order made under this section may contain one or more of the following provisions authorizing:

(a)

(b)

(d)

(e)

the Authority, water service provider or approval to take water from any source specified in the order subject to any conditions or restrictions specified in it;

the Authority or the sewerage service provider or approval to discharge water to any place specified in the order subject to any conditions or restrictions specified in it;

the Authority to prohibit or limit the taking of water by a water service provider or any other person from a source specified in the order if the Authority is satisfied that the taking of water from that source shall seriously affect the supply of water to the Commission, any water service provider or any other person;

the Authority to suspend or vary or attach conditions to any consent specified in the order for the discharge of any effluent by any person including any water service provider or sewerage service provider; and

the Authority or water service provider to prohibit or limit the use of water for such purpose as the Authority or, as the case may be, the water service provider thinks fit.

47. Offences with regard to drought orders.— (1) If any person-

(a)

(b)

takes or uses water in contravention of a prohibition or limitation imposed by or under an order referred to in section 46 of this Act or takes or uses water otherwise than in accordance with any condition or restriction so imposed; or

discharges water otherwise than in accordance with any condition or

restriction imposed by or under such an order he shall be guilty of an offence under this section.

(2) If any person-

(a)

fails to construct or maintain, in good order, a gauge or other apparatus for measuring the flow of water which he is required to construct or maintain under an order referred to in section 48 of this Act; or

(b) fails to allow some person authorized for the purpose by or under any such order to inspect and examine any such apparatus or any records made thereby or kept by that person in connection therewith or to take copies of any such record;

he shall be guilty of an offence under this section.

(3) In any proceedings against a person for an offence under this section, it shall be a defense for that person to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(4) A person who is guilty of an offence under this section shall be liable, upon conviction, to a fine which may extend to rupees five hundred thousand.

CHAPTER X DUTIES WITH REGARD TO ENVIRONMENTAL AND RECREATIONAL PURPOSES

48. Environmental and recreational duties.— (1) It shall be the duty of the Government and every authority established under this Act, to formulate or consider any proposal to-

(a) further the conservation and enhancement of natural beauty and the conservation of flora and fauna and geological or physio-geographical features or special interest;

(b) have regard to the desirability of protecting and conserving buildings, sites and objects of archeological, architectural or historic interest;

(c) take into account any effect which the proposal would have on the beauty or amenity of any rural or urban area or on any such flora, fauna, features, buildings, sites or objects; and

(d) have regard to the desirability of preserving and maintaining for the public freedom of access and visiting any place of natural beauty or building or site or object of archeological, architectural or historic interest.

(2) Without prejudice to any other duty imposed by this Act, it shall be the duty of every authority to promote-

(a) the conservation and enhancement of natural beauty; and

(b) the conservation of flora or fauna which are dependent on rivers, streams and large bodies of water.

CHAPTER XI CONTROLLED WATERS

49. Controlled waters.— The following shall be deemed to be the controlled waters for the purpose of this Act:

(a)

waters in rivers and their tributaries, nullahs and streams flowing in the Khyber Pakhtunkhwa;

(b) canals falling within the definition of the Canal and Drainage Act, 1873 (VII of 1873);

(c) waters in lakes or other natural reservoirs, as well as man-made reservoirs with a surface area larger than five square acres;

(d) ground and subsoil waters;

(e) storm water in drains; and

(f) any other water declared as such by the Commission.

50. Offences relating to controlled waters etc— (1) Whoever causes or knowingly permits-

(a) any poisonous, noxious or polluting matter or any solid waste matter to enter into any controlled waters;

(b) any matter to enter controlled waters by being discharged from a drain or sewer without the requisite treatment;

(c) any trade effluent or sewage effluent to be discharged, in contravention of any relevant prohibition from a building or from any fixed plant onto or into any land; and

(d) any action which tends, either directly or otherwise, to impede the proper flow of the waters including flood waters.

shall be said to have contravened the provisions of this section.

(2) A person who contravenes any provision of this section shall be guilty of an offence and liable, upon conviction, to imprisonment which may extend to three months or to a fine which may extend to rupees five hundred thousand or both.

(3) A person shall not be guilty of an offence under sub-section (1), if the entry occurs or the discharge is made in accordance with the terms of an approval for disposal of

water.

51. Water protection zones— (1) Government may declare a particular area as water

protection zone to-

(a)

(b)

prevent or control the entry of any poisonous, noxious or polluting matter into the controlled waters; or

prohibit or restrict the carrying on in a particular area of activities which it may consider likely to result in the pollution of any such waters.

(2) Commission may by regulations determine the circumstances in which the carrying on of any activities is prohibited or restricted and to determine the activities to which any such prohibition or restriction applies.

52. Offences related to deposits and vegetation — (1) A person shall be guilty of an offence under this section if he, without the approval of the respective Canal Officer, removes from any river, nullah, stream, lake, canal, reservoir or any other water body, except a water body which is privately owned.

(2) A person shall be guilty of an offence under this section if without consent of the Canal Officer he causes or permits a substantial amount of vegetation to be cut or uprooted in any river, nullah, stream, lake, canal, reservoir or any other water body except a water body which is privately owned or to be cut or uprooted adjacent to any such water body.

(3) Government may by rules determine conditions and manner in which approval may be granted by a Canal Officer under this section.

CHAPTER XII MISCELLANEOUS

53. Power to investigate— (1) The Authority may appoint one or more persons as technical assessors for the purpose of conducting an investigation as to whether any duty or other requirement imposed on a service provider by or under this Act is being, has been or is likely to be contravened.

(2) It shall be the duty of every service provider to provide such assistance as may be required by a technical assessor for the purposes of an investigation under this section.

(3) Any technical assessor may, for the purpose of this section—
(a) enter any premises;

(b) carry out such inspections, measurements and tests on premises and take away such samples of water or of any land and such fittings and other articles as may be required; and

(c) at any reasonable time require any water service provider to supply him with copies of, or extracts from the contents of any record kept for the purpose of complying with any duty or other requirement imposed on that service provider.

(4) Any service provider which fails to comply with the duty imposed under sub-section (2) shall be guilty of an offence and liable, upon conviction to a fine which may extend to rupees two hundred thousand.

54. Prosecution of offences— (1) Offences under this Act shall be cognizable on the complaint of the persons mentioned in the Third Schedule.

(2) A prosecution for an offence under this section shall not be instituted except by the public prosecutor.

55. Harmony with other Laws.—The provisions of this Act shall be in addition to and not in derogation with the existing laws and in case of any conflict of this Act with any other existing law, the provisions of this Act shall prevail.

56. Rules.— The Government may by notification in the official Gazette make rules for carrying out the purposes of this Act.

57. Regulations.— Subject to the provisions of this Act and the rules, the Commission may by notification in the official Gazette make regulations for carrying out the purposes of this Act.

58. Removal of difficulties — The Chief Minister may make such provisions and pass such orders as may be necessary or expedient for removal of any difficulty or doubt in giving effect to the provisions of this Act.

59. Indemnity No suit, prosecution or other legal proceeding shall lie against the Commission, Authority, his staff or any person authorized by the Authority for anything which is in good faith done or intended to be done under this Act.

60. Savings.— All notifications issued, orders, decisions and rules and regulations made, Agreement executed or proceedings done before the commencement of this Act by Government, its Departments, Agencies, Public Sector Companies, authorities, local governments and other governmental bodies concerning any subject, function or area dealt by or under this Act, whether related to water or otherwise, shall be deemed to have been validly issued made executed and done under this Act.

First Schedule

(see section 43)

Sr. No. | Approvals Body empowered to grant

Approval

1. A approval to abstract water form one source of | Authority supply for the purpose of transferring to another source of supply
2. An approval to abstract water from one source of | Authority supply for the purposes of transferring to the same source of supply at another point
3. An approval to abstract water for supply to | Authority consumers by a water service provider
4. An approval to abstract water for agricultural | Canal Officer of the area in purposes consultation with the Deputy Director of the Agriculture Department
- An approval to abstract water for domestic | Water Service provider in purposes whose area the abstraction will take place; where no service provider is appointed, by the Khyber Pakhtunkhwa Water Resources Commission
6. An approval to abstract water for industrial | Authority purposes
7. An approval to abstract water for mining purposes | Authority
8. An Approval to abstract water for ecological | Authority in consultation with purposes the Forest Department
9. An approval to abstract water for other purposes Commission

Second Schedule

(see section 44)

Sr. No. | Approvals Body empowered to grant Approval

1. An approval for disposal of clean Authority water into controlled waters
2. An approval for disposal of sewage Authority water into controlled waters
3. An approval for disposal of trade Authority effluent into controlled waters
4. An approval for disposal of any other | Authority water into controlled water

Third Schedule

(See section 54)

Section Person on whose complaint the offence is cognizable

18 Authority

21 Authority or

Person who has been supplied unfit water

24 Authority, an officer authorized by the Commission

35 Authority

43 Officer authorized by the Commission

40 Officer authorized by the Commission

41 Water service provider

44 Person who has granted the approval

45 Canal Officer

Wildlife Officer

46 Officer authorized by the Commission

49 Canal officers authorized by the Irrigation Department

52 Authority