

TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY

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Part IV-Section 2

Tamil Nadu Acts and Ordinances.

The following Act of the Tamil Nadu Legislative Assembly received the assent of the President of the 20th October 2002 and is hereby published for general information.

ACT No. 37 OF 2002.

An Act further to amend the Chennai Metropolitan Area Groundwater (Regulation) Act, 1987.

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty-third Year of the Republic of India as follows:-

1. (1) This Act may be called the Chennai Metropolitan Area Groundwater (Regulation) Amendment Act, 2002.

Short title and commencement.

(2) It shall come into force on such date as the State Government may, by notification, appoint.

2. In the Chennai Metropolitan Area Groundwater (Regulation) Act, 1987 (hereinafter referred to as the principal Act), in section 3:-

Amendment of Section 3.

(1) in sub-section (4),

(a) in clause (a), the word “or” occurring at the end shall be omitted;

(b) to clause (a), the following proviso shall be added, namely:-

“Provided that the competent authority while granting the permit may after having regard to the hydrogeological conditions, water table conditions, groundwater potential and yield of the aquifer, restrict the depth of the well: or”

(2) In sub-section (6), for clause (e), the following clauses shall be substituted, namely:-

“(e) the existence of other sources of water other than wells and its compatibility;

(f) the compatibility with the existing water resources;

(g) the factors that affect, control or prevent pollution;

(h) the possibility for rain water harvesting and conservation;

(i) such other matter as may be prescribed.”

Tamil Nadu
Act 27 of
1987.

Amendment
of Section
4.

3. In section 4 of the principal Act,

(1) in sub-section (1), for clauses (a) and (b), the following clauses shall be substituted, namely:-

“(a) the number of wells that were in existence in the scheduled area immediately before the date of commencement of this Act;

(b) the use of groundwater in the scheduled area for agricultural purposes immediately before the date of commencement of this Act;

(c) the number of wells from which water is extracted for domestic purposes;

(d) the number of wells from which water is extracted for industries, automobile service centres, multipurpose halls and other commercial centres;

(e) the number of water sources both public and private.”;

(2) in sub-section (2), for item (vii), the following items shall be substituted namely:-

“(vii) the details of the methods adopted for groundwater conservation and rain water harvesting;

(viii) the quality of water with scientific evidence;

(ix) such other matter as may be prescribed.”;

(3) in sub-section (4),-

(a) in clause (a),-

(i) after the expression “any land situate in the scheduled area”, the expression “or any other person” shall be inserted;

(ii) in the proviso, for the expression “owner or occupier”, the expression “owner, occupier or other person” shall be substituted;

(b) in clause (b),-

(i) for the expression “include or refuse to include or modify or refuse to modify”, the expression “pass an order in writing, within such time as may be prescribed, including or refusing to include or modifying or refusing to modify” shall be substituted;

(ii) the following proviso shall be added, namely:-

“Provided that no order under this clause refusing to include or modify the particulars shall be passed unless the applicant has been given an opportunity of being heard.”

Amendment
of Section 5.

4. In section 5 of the principal Act, in sub-section (5),-

(1) for clause (c), the following clause shall be substituted, namely:-

“(c) the availability of groundwater and other sources of water;

(2) after clause (f), the following clauses shall be added, namely:-

“(g) the quality of groundwater;

- (h) the objection from local residents against commercial extraction;
- (i) the availability of factors contributing to or causing pollution;
- (j) the measures taken for conservation of groundwater and harvesting of rain water and their maintenance;
- (k) such other matter as may be prescribed.”

5. After section 5 of the principal Act, the following section shall be inserted, namely:-

Insertion of new section 5-A.

“5-A. *Prohibition of use of groundwater in certain cases.*—Notwithstanding anything contained in this Act, no person shall,-

(a) extract groundwater for non potable use by an industry when alternate sources are available from the authorized water supply agencies;

(b) extract groundwater for use in swimming pool;

Provided that the competent authority may grant permission to any organisation including a Government Department to extract groundwater for use in swimming pools owned or maintained by such organisation for promoting sports;

(c) extract groundwater for gardening purposes.”

6. In section 10 of the principal Act,-

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

(a) for the expression “five hundred rupees”, the expression “two thousand rupees” shall be substituted;

(b) for the expression “one thousand rupees”, the expression “five thousand rupees” shall be substituted;

(2) in sub-section (2), for the expression “one hundred rupees”, the expression “five hundred rupees” shall be substituted.

Amendment of section 10.

7. After section 12 of the principal Act, the following sections shall be inserted, namely:-

Insertion of new sections 12-A to 12-G

“12-A. *Seizure and confiscation of property.*-(1) The Government may appoint an officer to be authorised officer to exercise the powers and perform the functions of the authorised officer under this section and section 12-B and 12-G different officers may be appointed as authorised officers for different areas.

(2) Notwithstanding anything contained in this Act or in any other law for the time being in force, where an offence under this Act is believed to have been committed, the competent authority may seize any vehicle or other article including pump, tube, tool or equipment used in committing offence under this Act and shall without any unreasonable delay, produce the vehicle together with the articles so seized before the authorised officer.

(3) Where any vehicle or other article is produced before the authorised officer under sub-section (2) and if he is satisfied that an offence under this Act has been committed, the authorised officer may, whether or not a prosecution is instituted for

the commission of such offence, order confiscation of the vehicle or other articles so seized.

(4) Where the authorised officer, after passing an order of confiscation under sub-section (3), is of the opinion that it is expedient in the public interest so to do, he may order the confiscated vehicle or other article to be sold by public auction.

(5) Where any confiscated property is sold under sub-section (4), and where the order of confiscation made under this section is set aside or annulled by an order under section 12-C or section 12-D, the proceeds of such sale, after deduction of the expenses of, or incidental to, such auction, shall be paid to the owner thereof or to the person from whom it was seized, as may be specified in such order.

12-B. *Issue of show cause notice before confiscation.*-(1) No order confiscating any vehicle or other article shall be made under section 12-A except after notice in writing to the person from whom it is seized informing him of the grounds on which it is proposed to confiscate and considering his objections, if any;

Provided that no order confiscating a motor vehicle shall be made except after giving notice in writing to the registered owner thereof, if, in the opinion of the authorised officer, it is practicable to do so and considering his objections, if any.

(2) Without prejudice to the provisions of sub-section (1) no order confiscating any vehicle or other article shall be made under section 12-A, if the owner of the vehicle or other article, proves to the satisfaction of the authorised officer that it was used in committing the offence under this Act without the knowledge or connivance of the owner himself, his agent, if any, and the person in-charge of the vehicle or other article and each of them had taken all reasonable and necessary precautions against such use.

12-C. *Revision.*-The Government may on its own motion or otherwise call for and examine the records of the authorised officer in respect of any order under section 12-A, make such inquiry or cause such inquiry to be made and pass such orders, as they deem fit;

Provided that no proceeding shall be initiated under this section against any order passed under section 12-A, if the time for appeal against that order has not expired:

Provided further that no order prejudicial to any person shall be passed under this section unless such person has been given an opportunity of making his representation and his representation is considered.

12-D. *Appeal.*-Any person aggrieved by any order passed under section 12-A or 12-C may within thirty days from the date of communication to him of such order, appeal to the Sessions Judge having jurisdiction over the area wherein the property has been seized and the Sessions Judge shall pass such order as he may think fit, which shall be final and shall not be called in question in any court of law.

12-E. *Order of confiscation no bar for inflicting any punishment.*-Any order of confiscation under section 12-A or 12-C or 12-D shall not be a bar for inflicting any punishment to which the persons affected thereby is liable under this Act.

12-F. *Property confiscated to vest with Government.*-When an order for confiscation of any property has been passed and such order has become final, every

vehicle or other article confiscated under section 12-A, or when sold under sub-section(4) of section 12-A, the sale proceeds thereof shall vest with the Government.

12-G. *Bur of jurisdiction.*-Where any vehicle or other article is seized under section 12-A, notwithstanding anything to the contrary contained in this Act or in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) or in any other law for the time being in force, the authorised officer under section 12-A, or the Government under section 12-C or the Sessions Judge under section 12-D alone have jurisdiction to pass orders in respect of custody, possession, delivery or disposal of such property and no court shall have such jurisdiction.

Amendment
of Section
14.

8. Section 14 of the principal Act shall be renumbered as sub-section (1) of that section and after sub-section (1) as so remembered, the following sub-section shall be added, namely:-

“(2) Notwithstanding anything contained in any other law for the time being in force to augment the groundwater storage,-

(a) in every building owned or maintained by the Government or a company or other institution owned or controlled by the Government, there shall be provision for rain water harvesting which shall be made in such manner and within such time as may be prescribed;

(b) on or after the commencement of the Chennai Metropolitan Area Groundwater (Regulation) Amendment Act, 2002, every person who constructs a building, whether for residential or non-residential purpose, shall provide rainwater harvesting structures in such manner as may be prescribed;

(c) the owner or occupier of any building in existence on the date of commencement of the Chennai Metropolitan Area Groundwater (Regulation) Amendment Act, 2002 shall provide rain water harvesting structures in such buildings in such manner and within such period as may be prescribed;

(d) water bodies, whether public or private, shall be used only for the purpose of storing water and not for any other purposes as such water bodies are contributing to groundwater recharge.

Explanation.-For the purpose of this clause, “water bodies” mean lakes, ponds, tanks and the like.”

(By order of the Governor)

A. KRISHNANKUTTY NAIR,
Secretary to Government,
Law Department.