

JAMMU AND KASHMIR STATE WATER RESOURCES REGULATORY AUTHORITY

NOTIFICATION

NO: 13 /JKSWRRA/2013, JAMMU

Dated: 22nd April 2013

In exercise of the powers conferred by section 198(1) read with sub-section (1) of section 103 of the Jammu & Kashmir Water Resources (Regulation & Management) Act, 2010 (Act No. XXI of 2010) and all other powers enabling it in this behalf, the J&K State Water Resources Regulatory Authority hereby makes the following regulations, namely:-

1. Short title, commencement and interpretation –

- (i) These Regulations may be called the J&K State Water Resources Regulatory Authority (Guidelines For Establishment of Forum For Redressal of Grievances of the Consumers) Regulation, 2013.
- (ii) These Regulations shall be applicable to all Licensees in their respective licensed areas.
- (iii) These Regulations extend to the whole of the State of Jammu & Kashmir.
- (iv) These shall come into force on the date of their publication in the Govt. Gazette

2. Definitions - In these Regulations, unless the context otherwise requires -

- (a) “act” means the Jammu & Kashmir Water Resources (Regulation & Management) Act, 2010
- (b) “area of supply” means the area within which a licensee is authorized by licence to supply water;
- (c) “chairperson” means the Chairperson of the Forum;
- (d) “complainant” means –
 - i) a consumer; or
 - ii) any consumer association registered under any law relating to Registration of Societies and/or Charitable Institutions or under any other law for the time being in force; or
 - iii) one or more consumers, where there are numerous consumers having the same interest;

- iv) in case of death of a consumer, his legal heirs or authorized representatives;
 - v) any other person who is affected by the services or business carried out by the licensee.
- (e) “Complaint” means any allegation in writing made by a complainant that –
- i) an unfair trade practice or a restrictive trade practice has been adopted by the licensee in providing service;
 - ii) the services hired or availed of or agreed to be hired or availed of by him suffer from deficiency in any respect;
 - iii) a licensee has charged for services mentioned in the complaint, charges in excess of the price fixed by the Authority;
 - iv) services which are hazardous to life and safety when availed, are being offered for use to the public in contravention of the provisions of any law for the time being in force or of any licence;
 - v) violation of any law or licence requiring the licensee to display the information in regard to the manner or effect of use of the services;
 - vi) any defect or deficiency in services;
 - vii) breach of any obligation by the licensee which adversely affects any consumer or which the Forum may consider appropriate to be treated as a complaint.
 - viii) the licensee is not observing the safety measures required to be taken in terms of section 105 of the Act
- (f) “consumer” means any person who is supplied with water for his own use by a licensee or by the Government or by any other person engaged in the business of supplying water to the public and includes any person whose premises are for the time being connected for the purpose of receiving water with the works of a licensee, the government or such other person, as the case may be;
- (g) “consumer grievance” means a complaint/protest/objection filed by the complainant;
- (h) “licensee” means a person authorized to operate and maintain a system for supplying water to the consumers;

- (i) “defect” means any fault, imperfection or shortcoming in the quality, quantity, or standard of service which is required to be maintained by or under any law for the time being in force or under any contract, express or implied, or under any licence or as is claimed by the licensee in any manner whatsoever in relation to the service;
- (j) “deficiency” means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or under any licence or has been undertaken to be performed by licensee in pursuance of a contract or otherwise in relation to service or performance standard, viz, interruption / failure of supply, water pressure metering problems including meter shifting, charges / payments (billing problems), disconnection / reconnection of supply to the consumer, new connection / notice of supply interruption, making and keeping regular / special appointments, contravention of the Act, rules or regulations made there under with regard to consumer interest;
- (k) in particular and without prejudice to the generality of the term, the “ service” means supply, billing, metering and maintenance of supply to the consumer and all other attendant sub-services etc;
- (l) “Forum” means ‘Forum for Redressal of Consumer Grievances’ constituted by license
- (m) “Authority” means the J&K State Water Resources Regulatory Authority;
- (n) words and expressions used and not defined in these guidelines but defined in the Jammu & Kashmir Water Resources (Regulation & Management) Act, 2010 shall have the meanings respectively assigned to them in the Act.

CHAPTER – 2

GUIDELINES FOR ESTABLISHMENT OF FORUM FOR REDRESSAL OF GRIEVANCES OF THE CONSUMERS

3. Constitution of Forum for Redressal of Grievances of the consumers -

- (1) Every licensee, shall within six months from the appointed date or grant of licence, whichever is earlier, establish a Forum for redressal of consumer grievances in accordance with these guidelines. The Forum shall be independent of the Licensee.
- (2) Forum shall consist of not more than three members including the Chairperson of the Forum. The licensee shall submit before the Authority, a panel of persons who are eligible according to the qualifications hereinafter prescribed and shall appoint only such persons as the Chairperson or members of the Forum whose names have been approved by the Authority.

- (3) No person shall be eligible to be appointed to the Forum unless he has the following qualification:-
- a. Chairperson of the Forum shall be a person possessing a degree in Civil engineering and should have held a post not below the rank of Superintending Engineer and having experience in the field of hydraulic Engineering.
 - b. One member shall be a person possessing degree in law and having at least 10 years of experience in legal matters.
Provided that when the Chairperson of the Forum is unable to discharge the functions owing to absence, illness or any other cause, the member indicated above shall discharge the function of the Chairperson, until the day on which the Chairperson assumes office.
 - c. Another member shall be a representative of a registered society or NGO or Consumer Organization having one of its main objectives as consumer protection, with at least 5 years of standing or alternatively the representing member should have five years of experience in consumer related matters.
- (4) The terms of the members of forum shall be for a period of two years from the date of appointment / nomination to the Forum provided that the tenure of a member may be extended by the Licensee for a further period of one year subject to an overall age limit of Sixty five (65) years.
- (5) No person shall be appointed and/or be entitled to continue as a member if he stands disqualified on account of his:
- (i) having been adjudged an insolvent
 - (ii) having been convicted of an offence involving moral turpitude
 - (iii) having become physically or mentally or otherwise incapable of acting as such member
 - (iv) having acquired such financial or other interest as is likely to affect prejudicially his function as a member
 - (v) having abused his position as to render his continuance in office prejudicial to the public interest
 - (vi) having been guilty of proved misbehavior
 - (vii) having become a member of a political party
- (6) An existing member shall be liable to be removed from his office forth with in the event of any of the disqualifications provided above arising or being discovered.
- (7) The Licensee shall appoint / designate one of his officers not below the rank of Class II officer as full time secretary to the Forum and shall also provide the required supporting staff as approved by the Authority and office accommodation for functioning of the Forum.
- (8) The Chairperson of the Forum may instruct the Secretary to call for a meeting of the Forum to be held at such time and at such place as the Chairperson may direct.
- (9) All decisions of the Forum shall be on the basis of majority of the members present and voting.

- (10) The quorum for the Forum meeting shall be two and each member shall have one vote and in case of equality of votes on any issue or resolution, the Chairperson or as the case may be, the member of the Forum discharging the functions of the Chairperson under clause 3 (3) (b) presiding over the meeting shall, in addition, have a casting vote.
- (11) The Forum shall have sittings at the headquarters of licensee or at any other place in the supply area of the licensee as may be decided by the Chairperson depending on the number of grievances.
- (12) The licensee shall give wide publicity to the formation of the Forum and shall necessarily obtain a post box number to facilitate easy registration of grievances by consumers.
- (13) Licensee may specify the salary / honorarium and other allowance payable to, and the terms and conditions of services of the Chairperson and member of the redressal Forum with the approval of the Authority.
- (14) On occurrence of any vacancy in the Forum by any reason, the distribution licensee shall take action to fill up the vacancy within two months from the date of occurrence of vacancy.
- (15) The address and phone number of Forum shall be displayed at all the offices of the distribution licensee and wide publicity shall be given in their areas of operation.

4. Jurisdiction of the Forum -

- (1) The Forum shall have the jurisdiction to entertain the complaints filed by the complainants with respect to the services provided by the Licensee.
- (2) The Forum shall entertain only those complaints where the complainant has approached the appropriate authority of the licensee as prescribed in the complaint handling procedure of the licensee approved by the Authority from time to time and either is not satisfied with the response of the licensee or there is no response within the time prescribed therein:
Provided that no complaint shall be entertained unless it is filed before the Forum within 6 months from the date when the cause of action first arose:
Further that the Forum may, for reasons to be recorded in writing, entertain a complaint which does not meet the aforesaid requirements.

5. The Licensee's Obligations –

- (1) The Licensee shall make available copies of the procedure for lodging complaints to the complainants free of cost.
- (2) The bills issued by the Licensee to the consumers shall contain the address of the Consumer Grievance Redressal Forum. The statement

“Complainants whose grievance is not redressed by the officials of the Licensee may approach the Consumer Grievances Redressal Forum” shall be printed on the Bills.

6. Grievance Filing -

- (1) The Forum shall take up any kind of grievance concerning services to the consumers including applications for new connections except the grievances arising under sections 151, 152, 156 to 174 & 181 of the Act.

- (2) Every grievance to the Forum must be submitted in writing to the Forum stating-
 - (a) the name of the individual or the organization, postal address, Consumer Account No. and telephone number, fax number and the E-mail address (if any) of the complainant;
 - (b) the name of the office of the origin of complaint, name of the district / division etc;
 - (c) a full description of the matter, which is the source of the grievance, including copies of relevant and supporting documents, if any;
 - (d) the relief prayed for.
- (3) A copy of response, if any, from the licensee shall be enclosed.
- (4) The grievance shall be submitted as per the format specified in ANNEXURE I

7. Grievance handling procedure for the Forum -

- (1) On receipt of a consumer grievance, the secretary to the Forum shall make an endorsement on the grievance, with his dated initials.
- (2) Within 7 days of receipt of a consumer grievance, the Secretary shall send an acknowledgement to the applicant. Consumer grievances received shall be registered and serially numbered for each year, and shall be referred e.g., C.G. No. 1/201-, 2/201- and so on. A copy of the communication from the licensee for redressal or to file objections if any in writing in case the licensee is not agreeable to the request of the complainant.
- (3) The employee nominated / authorized in this regard by the licensee or the employee named in the complaint shall furnish the para wise comments on the grievance within 15 days from the date of receipt of the letter from the Forum, failing which the Forum shall proceed on the basis of the material available on record.
- (4) The Forum may call for any record of the licensee or from the complainant for examination and disposal of the grievance and the parties shall be under obligation to provide such information, documents or record as the Forum may call for where a party fails to furnish such information, documents or record and the Forum is satisfied that the party in possession of the record is withholding it deliberately, it may draw an adverse inference.
- (5) On receipt of the comments from the licensee or otherwise and after conducting or having such inquiry or local inspection conducted as the Forum may consider necessary, and after affording reasonable opportunity of hearing to the parties, the Forum shall pass appropriate orders for disposal of the grievance.
- (6) The proceedings and decisions of the Forum shall be recorded and shall be supported by reasons. The decision (s) of the Forum shall be based on the opinion of a majority of members present and voting. The order of the Forum shall be communicated to the complainant and licensee in writing within 7 days. The licensee shall comply with the order of the Forum within 15 days from the date of receipt of the order.
- (7) The Forum may, subject to the regulations made by the Authority in this regard, award such compensation to the complainants as it considers just and appropriate in the circumstances of the case.

- (8) The Forum may issue such interim orders pending final disposal of the complainant as it may consider necessary.
- (9) Where the complainant or the licensee fails to appear before the Forum on the date fixed for hearing consecutively on more than two occasions, the Forum may decide the complaint ex-parte.
- (10) If the complainant is aggrieved by the orders of the Forum, he may prefer an appeal before the Authority within a period of **forty five days** from the date of receipt of the order.

8. Monitoring of the consumer grievances by Forum -

- (1) The Forum will keep a record of consumer grievances reported to it and the results thereof.
- (2) The Forum shall submit a report on the Form (Annexure-II) on the number of complaints received, redressed and pending, every month to the Authority for the period of 1st of the calendar month to end of the month and a copy shall also be forwarded to the licensee, and also a consolidated annual report on such by 1st May every year.
- (3) The Authority may publish the report in such form or manner as it may deem fit.

9. Presence of grievance handling mechanisms preceding the Forum

For expeditious resolution of problems of a Complainant, any mechanisms existing within the licensee, other than the Forum established under these Regulations, may be retained: Provided that the Complainant shall have the right to approach the Forum directly in respect of matters falling under jurisdiction of the Forum.

10. General powers to amend.-

The Authority may, at any time and on such terms as it may think fit, amend any provision of the Regulations for the purpose of meeting the objectives with which these Regulations have been framed

11. Power to remove difficulties –

If any difficulty arises in giving effect to any of the provisions of these Regulations, on being brought to the notice of the Authority, the Authority may, by general or special order, direct the Licensee or the Forum to take suitable action that appears to it to be necessary or expedient for the purpose of removing the difficulties not being inconsistent with the provisions of the Act.

By order of the Authority

**Sd/-
Secretary**

APPLICATION TO FORUM FOR REDRESSAL OF GRIEVANCE

Date : _____

1. Name of the Complainant: _____
2. Full address of the Complainant: _____
Pin Code: _____
Phone no: _____
Fax no. : _____
Email id: _____
3. Nature of Connection and Consumer no. (in case of having applied for a connection, state the application number):
4. Department/ licensee: _____
5. Details of grievance, facts giving to rievance; _____

6. Name of the officer of the department/Licencee/ against whose grievance has been filed.
7. Nature of relief sought from the Forum _____

8. List of documents enclosed (Please enclose copies of any relevant documents which support the facts giving rise to the grievance)

9. Declaration
 - a) I/ We, the Complainant /s herein declare that:
 - (i) The information furnished herein above is true and correct; and
 - (ii) I/ We have not concealed or misrepresented any fact stated hereinabove and the documents submitted herewith
 - b) The subject matter of the present Grievance has never been submitted to the Forum by me/or by any one of us or by any of the parties concerned with the subject matter to the best of my/ our knowledge.
 - c) The subject matter of my/our Grievance has not been settled through the Forum in any previous proceedings.
 - d) The subject matter of my / our Grievance has not been decided by any competent authority /court / arbitrator, and is not pending before any such authority /court/arbitrator.

Yours faithfully

**(Signature)
Name in block letters)**

NOMINATION- (if the Complainant wants to nominate his representative to appear and make submissions on his behalf before the Forum, the following declaration should be submitted.)

I/We the above named consumer hereby nominate Shri/Smt....., whose address isas **my/our**

REPRESENTATIVE in the proceedings and confirm that any statement, acceptance or rejection made by him/her shall be binding on me/us. He /She has signed below in my presence.

ACCEPTED

(Signature of Representative)

(Signature of Complainant)

Annexure – II

CONSUMER GRIEVANCE REDRESSAL MONITORING REPORT FOR THE MONTH _____

S.No	Complaint Status	Name of Complaints							Total
		Delay in effecting supply	Quality of water	Interruptions	Problems Metering	Billing Problems	Tariff Problems	Others	
1.	Complaints Pending at the end of the last quarter.								
2.	Complaints Received during the quarter								
3.	Total Complaints. (1+2)								
4.	Complaints attended during the quarter								
5.	Balance Complaints to be attended. (3-4)								
6.	Complaints pending for more than 3 months but less than 6 months.								
7.	Complaints pending for more than 6 months.								

NOTE: The present status for each complaint pending for more than six months may be furnished separately