

Part III
Laws, Regulations and Rules passed thereunder.

**JAMMU AND KASHMIR STATE WATER RESOURCES REGULATORY
AUTHORITY**

Notification

NO: 14/JKSWRRA/2014, Jammu
Dated: 15/04/2014

In exercise of the powers conferred under section 198 (2) (I) of the J & K Water Resources (Regulation and Management) Act, 2010 (Act No XXI of 2010) and all powers enabling it in that behalf, the J&K State Water Resources Regulatory Authority, hereby makes the following Regulations, namely;

CHAPTER – I

1. Short title, commencement and interpretation-
 - (1) These Regulations may be called the J&K State Water Resources Regulatory Authority (Form and manner of filing an appeal for matters other than the matter of assessment) Regulations, 2014.
 - (2) These Regulations shall come into force from the date of their publication in the Government Gazette.
 - (3) These regulations are applicable to the state of Jammu & Kashmir.
2. Definitions
 - (1) In these Regulations, unless the context otherwise requires
 - (a) ~~Act~~ means the Jammu and Kashmir Water Resources (Regulation & Management) Act 2010 (Act No XXI of 2010);
 - (b) ~~Authority~~ means the J & K State Water Resources Regulatory Authority, established under the Act;
 - (c) ~~Appellate Authority~~ means:-
 - (i) The Superintending Engineer, in case the appeal is made against the orders of the Executive Engineer.
 - (ii) The Prescribed Authority for the matters relating to disconnection of supply.
 - (iii) The Authority, in case appeal is made against the orders of the Prescribed Authority.

- (d) ~~Chairperson~~ means the Chairperson of the Authority;
- (e) ~~Government~~ means the Government of Jammu and Kashmir;
- (f) ~~Licensing Authority~~ means Chief Engineer concerned Incharge PHE in respect of drinking water supply and groundwater; and Chief Engineer concerned Incharge Irrigation and Flood Control in respect of Irrigation, flood control and embankment schemes.
- (g) ~~Member~~ means a Member of the Authority;
- (h) ~~Officer~~ means an officer of the Authority;
- (i) ~~Prescribed Authority~~ means
 - i. in relation to drinking water supply and groundwater, the Chief Engineer concerned incharge PHE: and
 - ii. in relation to irrigation, flood control and embankments, the Chief Engineer concerned incharge Irrigation and Flood Control.
- (j) ~~Secretary~~ means the Secretary of the Authority;

(2) Words or expressions occurring in these Regulations and not defined herein but defined in the Act shall bear the same meaning as in the Act or in the J&K State Water Resources Regulatory Authority (Conduct of Business) Regulations, 2013.

CHAPTER-II

Form & Manner of Filing of Appeal Before the Appellate Authority

3. These regulations shall apply to the appeals in respect of the following:
 - (a) Matters relating to supply of drinking water with regard to grant of connection, powers to enter premises and cutting of water supply as per Section 8 (3), 21 and 22 of the Act.
 - (b) Matters relating to groundwater with regard to permission or extraction of groundwater in a notified area, registration of existing users in a notified area, grant of permit/certificate of registration and powers to enter/seize as per Section 112 (3), 114 (3), 117, 118 and 119 of the Act.
 - (c) Matters relating to disconnection for default of payments of water usage charges as per Section 132 and 133 of the Act.
 - (d) Matters related to grant of licence for installation of unit for usage of water as per Section 98 of the Act.
 - (e) Matters relating to adjudication as per Section 175 of the Act.
 - (f) Other matters.

4. Appeals for matters relating to Drinking Water.-

- (a) Any person, whether owner or occupier of any premises, whose application in the prescribed form accompanied by prescribed fee for supply of drinking water for domestic purposes to the Executive Engineer concerned is rejected as per section 8(3) of the Act.
 - (b) Any person, whether owner or occupier of any premises, whose application in the prescribed form accompanied by prescribed fee for supply of drinking water for other than domestic purposes, to the prescribed Authority is rejected as per section 8(3) of the Act.
 - (c) Any person who is aggrieved by the action of the person duly authorized to enter premises or break open the door as per Section 21 of the act.
 - (d) Any person aggrieved by the orders of the Executive Engineer for cutting of water supply to his/her premises as per section 22 of the Act on the following grounds:
 - (i) If, after the receipt of a written notice from the Assistant Executive Engineer concerned requiring him to refrain from misuse or unauthorized use , the owner or occupier of the premises continues to do so, in contravention of the Act or the Rules and Regulations framed thereunder;
 - (ii) If any pipe, tap, work or fitting connected with the supply of water to the premises is found, on inspection in this behalf, to be damaged or out of repair to such an extent so as to cause wastage or contamination of water and immediate prevention is necessary;
 - (iii) If there is any water-pipe situated within the premises to which no tap or other efficient means of turning off the water is attached;
 - (iv) If, by reason of a leakage in the pipe or fittings, damage is caused to the public street and immediate prevention is necessary; or
 - (v) If the owner of the premises refuses or fails to pay, for a period of one month after he has been served with a notice of demand, water charges on account of water consumed in the premises;
- may prefer an appeal to the appellate authority:
- (a) The Superintending Engineer concerned, if such an order is made by the Executive Engineer; and
 - (b) The Authority, if such an order is made by the Prescribed Authority.

Every such appeal shall be preferred within a period of ninety days from the date of the order.

Provided that the Authority or the Superintending Engineer, as the case may be, may entertain an appeal after the expiry of the said period of ninety days if he is satisfied that the appellant was prevented by a sufficient cause from filing it in time.

On receipt of any such an appeal, the Authority or the Superintending Engineer, as the case may be, shall, after giving the appellant a reasonable opportunity of being heard and after making such enquiry as deemed appropriate, dispose of the appeal within a period of four months from the date of its institution.

The decision of the appellate authority or the Superintending Engineer, as the case may be, on such an appeal shall be final.

5. Appeals for matters relating to Groundwater.-

- (a) Any person aggrieved by the rejection of his application for sinking a well in a notified area by the prescribed authority as per section 112(3) of the Act.
- (b) Any person aggrieved by rejection of his application by the prescribed authority for grant of certificate of registration as an existing user in an area notified under section 111 (I) of the Act.
- (c) Any person aggrieved by the orders of the prescribed authority for altering, amending or varying the terms of the permit or certificate of registration under section 117 of the Act, and cancellation of the permit or certificate of registration under section 118 of the Act;
- (d) Any person aggrieved by the action of the person or the prescribed authority , entering, inspecting and seizure of any equipment/device for illegal sinking, destroying work executed fully or partly or in breaking open the door of any premises as per Section 119 of the Act;

may, within a period of thirty days from the date of the relevant orders of the prescribed authority, prefer an appeal before the Authority provided that the authority may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal in time.

On receipt of any such appeal, the authority shall after giving the appellant an opportunity of being heard, dispose of the appeal as expeditiously as possible.

6. Appeals for matters relating to disconnection for default of payments of water usage charges or on other grounds as per Section 132 & 133 of the Act.-

Any person aggrieved by an order or any action made for disconnection of supply in the default of payment as per Section 132 or on the following grounds as per Section 133 of the Act:

- (a) If, after the receipt of a written notice from the Assistant Executive Engineer requiring him to refrain from so doing, the owner or occupier of the premises or unit, or the user or the licensee continues to use the water or permit the same to be used in contravention of the provisions of the Act or the rules; or
- (b) If any pipe, tap, fitting connected with the supply of water to the premises, area or unit be found, on inspection by an officer authorized in this behalf, to be out of repair to such an extent as to cause so serious a waste or contamination of water that in the opinion of the Assistant Executive Engineer immediate stoppage of water supply is necessary; or
- (c) If there is any water pipe situated within the premises or unit of a user or licensee to which no tap or other efficient means of turning the water off is attached; or
- (d) If, by reason of a leakage in the pipe, or fitting damage is caused to the public street and immediate stoppage of water supply is necessary;

may prefer an appeal within a period of thirty days from the date of such order or action to the prescribed authority, who after hearing the parties, shall pass such an order as it may deem proper, and the decision of the prescribed authority shall be final.

7. Appeal for matters related to grant of licence for installation of unit for usage of water as per Section 98 of the Act.-

Any person intending to install a unit requiring usage of water for the purpose of;

- (a) Irrigation of land.
- (b) Drinking purposes (domestic, commercial, industrial or institutional).
- (c) Running of water mills.
- (d) Exploration and exploitation of ground water.
- (e) Distribution of water; and
- (f) Undertaking trading in water directly or indirectly

is required to obtain a licence from the licensing authority. He or she shall be required to file an application before the said authority, who may either grant the licence or reject the same. The person aggrieved by the decision of the licensing authority may prefer an appeal to the Authority within a period of thirty days from the date of such a decision, and the Authority shall decide the said appeal after giving the aggrieved party a reasonable opportunity of being heard. The decision of the Authority shall be final.

8. Appeal for matters relating to adjudication as per Section 175 of the Act.-

Any person aggrieved by the orders of adjudicating officer appointed by the Authority for the purpose of adjudicating under the Act, in accordance with the procedure as laid down in Section 175 of the Act; may prefer an appeal before the Authority. This appeal shall be preferred within thirty days from the date of order by the adjudicating officer. The appellant may ask for modifying or rescinding such orders.

Provided that the authority shall not pass any order without affording a reasonable opportunity of being heard to the other party or parties, as the case may be.

9. Appeal for other matters.-

Any person aggrieved by the order of any officer or the prescribed authority on any matter other than the ones specified above but including the following;

- (i) Execution of the scheme under section 33 of the Act;
- (ii) Protection of water channels against demolition under section 38 of the Act;
- (iii) Adjustment of claims between persons jointly using water channels under section 39 of the Act;
- (iv) Supply of water through intervening channels under section 40 of the Act;
- (v) Transfer of field channels and expenses to be paid by the applicant before transfer of field channel as per section 46 of the Act;

- (vi) Approval of the schemes in culturable command area as per section 51 of the Act;
- (vii) Prescribing the kind of crop to be grown under the irrigation area as per section 62 of the Act;
- (viii) Imposing fine by water committees for encroachment upon irrigation works and the land appurtenant there to and damage to irrigation works as per section 64 of the Act;

may prefer an appeal to the relevant officer, prescribed authority or the Authority as the case may be within a period of thirty days from the date of such order or an action, who after hearing the parties shall pass such orders as it may deem fit and the decision of the appellate authority shall be final. On receipt of any appeal, the authority shall after giving the appellant an opportunity of being heard, dispose of the appeal as expeditiously as possible.

10. All appeals under these regulations shall be filed before the appellate authority concerned in the form specified in Annexure I.
11. The order of all appellate authorities shall be final.
12. All appeals shall be accompanied by the documents, which the person seeks to rely upon in support of his appeal and shall be accompanied by a fee of Rs. 500/- when appeal is to be made before the relevant officer/prescribed authority and Rs. 2000/- when appeal is to be made before the Authority.
13. The fees payable shall be in the form of a bank draft or in the form of anywhere cheque to payees account in favour of the appellate authority or in cash in the office of the appellate authority.
14. Public holidays shall not be reckoned for calculation of time of 30 days or 90 days in these regulations if they occur at the end of the period.
15. The appellant authority shall for convenience of the public display all relevant information regarding the appeals on the notice board installed at a conspicuous place of the office for knowledge of the public.
16. The notice of hearing of application for appeal or review shall be served in any one or more of the following manner ,namely
 - i. By the Party itself
 - ii. By hand through process server
 - iii. BY the registered post with due acknowledgement, or
 - iv. Through the department
17. All appellate authorities other than the Authority should submit their quarterly report to the Authority for their reference and record in the prescribed form as annexed as Annexure-II.

18. Protection of action taken in good faith.-

No suit prosecution or other legal proceedings shall lie against any official for anything done in good faith purporting to be done under the Act or the Rules or Regulations made thereunder.

19. General power 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.

20. Power to remove difficulties.-

If any difficulty arises in giving effect to any of the provisions of these Regulations, the Authority may, by general or special order, do anything not being inconsistent with the provisions of the Act, which appears to it to be necessary or expedient for the purpose of removing the difficulties.

By order of the Authority

Secretary

ANNEXURE –I

Form of Appeal to the Appellate Authority concerned (Refer Regulation 10)

1. Name of the Appellant _____
2. Full address of the Appellant _____
Pin Code:
Phone No:
Fax No:
Email ID:
3. Nature of connection and user No. (in case of having formal connection the same be indicated):_____
4. Name and designation of the officer/authority against whose order appeal has been filed:
5. Details of the objection on the orders of the issuing authority/grounds of appeal (if space is not sufficient please enclose a separate sheet)_____
6. Nature of relief sought.
7. List of documents enclosed (Please enclose copies of all relevant documents which the appellant seeks to rely upon in support of his appeal._____.
8. Declaration
I/We, 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 in the documents submitted herewith.

Place:

Yours faithfully

Dated:

(Signature)
Appellant's name in block letters)

Note: - (An Appellant wishing to nominate his representative to appear and make submissions on his behalf before the appellate authority shall have to submit a declaration on the format given below):

I/We the above named appellant hereby nominate Shri/ Smt
í í í í í í í í í í í í í í í í ,whose address is
í í

í í í í í í í í í í í í í í í í í í as my/ our REPRESENTATIVE in these proceedings and confirm that any statement, submission, 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 appellant)

Annexure-II

FORM OF REGISTER TO BE MAINTAINED IN THE OFFICE OF FIRST APPELLATE AUTHORITY

Name of the Office of the First appellate officer				
S. No.	Name and address of appellant	Date of filing first appeal	Designation of the designated officer (Along with the name of officer) against whose decision the appeal is filed	Date of issue of order
(1)	(2)	(3)	(4)	(5)