

Nepal Water Supply Corporation Act, 2046 (1989)

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Amendments,

1. Administration of Justice Act, 2048 2048.2.16
(May 30, 1991)
2. Nepal Water Supply Corporation
(First Amendment) Act, 2049 2049.6.14
(Sept. 30, 1992)
3. Nepal Water Supply Corporation
(Second Amendment) Act, 2057 2057.8.21
(Nov. 6, 2000)
4. Nepal Water Supply Corporation
(Third Amendment) Act, 2063 2063.9.20
(Jan. 4, 2006)
5. Republic Strengthening and Some Nepal Laws
Amendment Act, 2066 2066.10.7
(Jan. 21, 2010)

Act Number 23 of the Year 2046 (1989)

**An Act made to Provide for the Establishment and Arrangement of
Nepal Water Supply Corporation**

Preamble: Whereas, it is expedient to establish a Nepal Water Supply Corporation and operate it so as to maintain the health and convenience of the general public, make proper arrangements to make available pure drinking water on a regular basis and the system of sewerages.....¹ in various areas of the Nepal;

Now, therefore, be it enacted by His Majesty's King Birendra Bir Bikram Shah Dev, on the advice and with the consent of the *Rastriya Panchayat*.

1. Short Title and Commencement:

- 1.1 This Act may be called as "Nepal Water Supply Corporation Act, 2045 (1989)".
- 1.2 It shall come into force on such date as appointed by Government of Nepal by a Notification in the Nepal Gazette.²

2. Definitions:

- 2.1 Unless the subject or context otherwise requires, in this Act,-
- 2.1.1 "Corporation" means the Nepal Water Supply Corporation established pursuant to Section 3.
- 2.1.2 "Board" means the Board of Directors formed pursuant to Section 8.
- 2.1.3³ "Chairperson" means the Chairperson of the Corporation designated or appointed pursuant to Section 11.

¹ Deleted by Republic Strengthening and Some Nepal Laws Amendment Act, 2066.

² As per such appointment of date, this Act came into force on 2046.11.15 (Date of publication in the Nepal Gazette: 2046.11.15).

2.1.3A⁴ "Body" means a body corporate established pursuant to the prevailing law.

2.1.3B⁵ "Service system" means a reservoir built for the provision of the drinking water service, water treatment or purification plant installed to such a reservoir, pipe installed to supply water or waste water treatment plant, sewerage system, equipment or other structure of similar nature built for the exit of sewage, and this expression also includes a building or land associated with the drinking water service or sewerage service.

2.1.3C.⁶ "Board" means the Board established pursuant to the Water Supply Management Board Act, 2063.

2.1.4⁷ "Prescribed" or "as prescribed" means prescribed or as prescribed in Rules or Bye-laws framed under this Act.

3. Establishment of Corporation:

3.1 There shall be established⁸ a Nepal Water Supply Corporation for providing clean drinking water regularly and making proper arrangements of the system of sewerages in such areas as may be specified by the Government of Nepal, by a Notification in the Nepal Gazette,.....⁹

³ Amended by the First Amendment

⁴ Inserted by the Second Amendment.

⁵ Inserted by the Third Amendment.

⁶ Inserted by the Third Amendment.

⁷ Amended by the First Amendment.

⁸ Amended by the Third Amendment.

⁹ Deleted by the Third Amendment.

3.2 The Head Office of the Corporation shall be located in the Kathmandu Valley.

3.3 Other offices of the Corporation may be located in any part of Nepal,...¹⁰ as may be required.

4. Corporation to be a Corporate Body:

4.1 The Corporation shall be an autonomous and corporate body having perpetual succession.

4.2 The Corporation shall have a separate seal of its own.

4.3 The Corporation may, like an individual, acquire, enjoy, sell or otherwise dispose of any movable or immovable property.

4.4 The Corporation may, like an individual, sue and be also sued by its name.

5. Functions, Duties and Powers of the Corporation:

5.1 The functions, duties and powers of the Corporation shall be as follows:

5.1.1 To prepare plans on drinking water and sewerage, and to implement or cause to be implemented, such plans,

5.1.2 To carry out study, research and survey on the source and distribution of drinking water and of sewerage system,

5.1.3 To determine the route from the source of drinking water up to the site of distribution and to make demarcation thereof,

¹⁰ Deleted by the Republic Strengthening and Some Nepal Laws Amendment Act, 2066.

- 5.1.4 To carry out, or cause to be carried out, such construction works as may be necessary for the works related with drinking water and sewerage,
- 5.1.5 To perform such functions as may be required to be performed in accordance with the provisions of any agreement on drinking water and sewerage entered into by Government of Nepal with any foreign government or international or foreign agency,
- 5.1.6 To operate such development projects relating to drinking water and sewerage as may be specified by Government of Nepal,
- 5.1.7 To render service by providing facilities of drinking water and sewerage by taking charges and fees,
- 5.1.8 To lay down conditions relating to the utilization of drinking water and the use of sewerage,
- 5.1.9 To prevent the misuse of drinking water,
- 5.1.10 To control pollution in drinking water,
- 5.1.11 To carry out, or cause to be carried out, necessary maintenance and repairs of pipelines of drinking water and sewerage,
- 5.1.12 To carry out necessary repairs and provide service as promptly as possible, in the event of receipt of a notice by the Corporation that water is not available from the taps due to any reasons,

5.1.13 To raise operational costs of the Corporation by the Corporation on its own,

5.1.14 To perform, or cause to be performed, such other functions as may be necessary for the accomplishment of objectives of the Corporation.

5A.¹¹ Power to contract out any function done or to be done by the Corporation:

5A.1¹² Notwithstanding anything contained elsewhere in this Act, if the Corporation intends to get any service system being operated and managed by it in accordance with this Act by contracting out the system to any body of which Eighty percent shares is owned by the Government of Nepal and Local Body or any not-for-profit organization or consumers' association, the Corporation may, with the prior approval of the Government of Nepal, contract the service system, structure and equipment associated with the system and other property related therewith to such a body or organization.

5A.2 Matters relating to the structure, equipment and property owned by or held in custody of the Corporation and as may be used by the body entering into contract pursuant to Sub-section 5A1, the validity period of contract, consideration to be received by contracting parties for the consideration and other relevant matters shall be as set forth in the contract.

5A.3 The structure, equipment and property owned by or held in custody of the Corporation and being used by the body entering into contract

¹¹ Inserted by the Second Amendment.

¹² Amended by the Third Amendment.

pursuant to Sub-section 5A.1 shall be returned to the Corporation in accordance with the terms of the contract after the completion of the term of contract.

5A.4 Provision allowing to work under Sub-section 5A.1 shall not be deemed to be a privatization under the Privatization Act, 2050.

5B.¹³ Ownership of service system may be transferred:

5B.1 Notwithstanding anything contained elsewhere in this Act, if the Government of Nepal considers appropriate and necessary to make proper arrangement of the water supply and sewerage by getting any service system of any area in which the Corporation is operating and managing it pursuant to this Act transferred to the Board, it may transfer or cause to be transferred the ownership of service system in that area.

5B.2 In transferring, or causing to be transferred the ownership of service system pursuant to Sub-section 5B.1, the Government of Nepal shall value as prescribed the service system of which ownership is to be transferred and the properties relating thereto and also transfer the liability equal to the value of such a service system to such a Board.

5B.3 If the ownership of the service system is transferred pursuant to Sub-section 5B.1, the Board taking ownership in such a manner shall be responsible for the provision of drinking water, carrying out sewerage related work, repair and maintenance, and operation and management of the service system.

¹³ Amended by the Third Amendment.

5C.¹⁴ Power to grant tax and charge exemption and conversion facility:

The Government of Nepal may, by a Notification in the Nepal Gazette, grant exemption from income tax, customs or any other charge and foreign exchange facility to an body entering into contract pursuant to Sub-section 5A. for the works set forth in the contract.

5D.¹⁵ Provisions relating to employees:

5D.1 Where a contract is entered into pursuant to Sub-section 5A., the Corporation may depute the employees serving in the Corporation at the time of entering into such a contract to the body taking them under contract service for the period set forth in the contract on the condition that such a body shall provide remuneration and facilities to such employees.

Provided that if such a body does not intend to take the employees of the Corporation associated with the service system undertaken pursuant to the contract or such employees do not intend to serve in such a body, the Corporation may engage such employees in the other works of the Corporation or retire them from service by providing them such gratuity to them as prescribed on the basis of the prescribed criteria as is not less than the facility to which they are entitled in accordance with the law relating to their service and conditions of service.

5D.2 Where the ownership of any service system is transferred to any board pursuant to Sub-section 5B., necessary provision may be made

¹⁴ Inserted by the Second Amendment.

¹⁵ Inserted by the Third Amendment.

that the employees of the Corporation associated with such service system serve in the board taking such transfer of service system.

Provided that, if the board taking the transfer of service system does not intend to take such employees or such employees do not intend to serve in such a board, the Corporation may engage such employees in the other works of the Corporation or retire them from service by providing them such gratuity to them as prescribed on the basis of the prescribed criteria as is not less than the facility to which they are entitled in accordance with the law relating to their service and conditions of service.

5D.3 The terms and conditions of service of the employees deputed pursuant to Sub-section 5D.2 shall be as prescribed.

Provided that, the remuneration and facility of the employees so deputed shall not be less than the remuneration and facility being provided by the Corporation at the time of deputation by the Corporation.

6. Power to Recover Fees and Service Charges:

6.1 The Corporation may recover the fee for drinking water and the service charge for sewerage and the fixation of the taps etc.....¹⁶ from the concerned person.

6.2 The time-limit for the payment of fee for drinking water and service charge or sewerage shall be as fixed by the Corporation.

6.3 In cases where a person fails to pay fees or service charges within the time-limit pursuant to Sub-section 6.2, the Corporation may

¹⁶ Deleted by the Third Amendment.

recover from such defaulter an additional sum ranging from Twenty Five to Fifty percent.

- 6.4 In cases where any customer fails to pay to the Corporation the fees, service charges, additional charges or any other charge payable within the time-limit fixed by the Corporation, the Corporation may withhold the facilities of drinking water and sewerage being provided to such customer.
- 6.5 If a person in whose relation the facilities were withheld pursuant to Sub-section 6.4 pays new customer's fee and the due amount as referred to in Sub-section 6.3, the Corporation may again provide such facilities.

7. Right of Entry to Land and Building of Other Persons:

If a person authorized by the Corporation is required to enter into any land and building of any other person in connection with the functions of the Corporation, he or she shall have the right to enter into such a land and building by giving a prior notice to the person occupying such land or building for the time being.

Provided that, if there is a reasonable ground to suspect that drinking water is being misused or stolen, the Chairperson or an officer of the Corporation designated by him or her in that behalf shall not be required to give a prior notice to enter in connection with the inquiry at any time except between the night period of sunset and sunrise.

8. Constitution of the Board of Directors:

8.1¹⁷ There shall be constituted a Board of Directors for the operation, supervision and management of the businesses of the Corporation, consisting of the following members:

- 8.1.1 A person designated or appointed by the Government of Nepal from amongst the persons who have experience in the management of water supply - Chairperson
- 8.1.2 Representative, Ministry of Housing and Physical Planning (Gazetted First Class) - Member
- 8.1.3 Representative, Ministry of Health and Population (Gazetted First Class) - Member
- 8.1.4 The mayor of a Municipality specified by the Government of Nepal from amongst the Municipalities where the Corporation is providing service - Member
- 8.1.5 Two women representatives of the organization designated by the Government of Nepal from among the organizations of consumers engaged in - Member

¹⁷ Amended by the Third Amendment.

the protection of the interests of consumers

- 8.1.6 One expert as designated by the Government of Nepal from amongst the experts in the field of quality of water - Member
- 8.1.7 One person as designated by the Government of Nepal from among the non-government organizations involved in the field of environment or ecology - Member
- 8.1.8 General Manager, the Nepal Drinking Water Corporation - Member Secretary

8.2¹⁸

8.3 The Government of Nepal may, if it deems necessary, by a Notification in the Nepal Gazette, increase or reduce the number of members or make alteration in the membership of the Board of Directors.

8.4 The Board may, if it deems necessary, invite any foreign or national expert or consultant to any meeting of the Board of Directors to take part therein as an observer.

¹⁸ Deleted by the First Amendment.

9. Procedures relating to meetings of the Board:

- 9.1 The meetings of the Board shall, as required, be held at such date, time and venue as may be fixed by the Chairperson.
- 9.2 The presence of more than Fifty percent of the total number of members shall be deemed to constitute a quorum for the meeting of the Board.
- 9.3 The Chairperson shall preside over the meeting of the Board, and in his or her absence, a member selected in that behalf by the members from amongst themselves shall preside over the meeting.
- 9.4 Decisions at the meeting of the Board shall be taken by majority votes, and in the case of a tie, the Chairperson shall exercise the casting vote.
- 9.5 Decisions of the Board shall be authenticated by the Member-Secretary of the Board.
- 9.6 The Board shall, on its own, determine the other procedures relating to the meetings of the Board.

9A.¹⁹ Proceedings not to be held invalid: Any proceeding of the Board of Directors shall not be held invalid only by reason of any vacancy occurring in the post of any member.

10. Power to constitute sub-committees:

- 10.1 The Board may, for effectively running its business, constitute various sub-committees as may be required.

¹⁹ Inserted by the First Amendment.

10.2 The Board may, if it deems necessary, authorize the sub-committees constituted pursuant to Sub-section 10.1 to launch drinking water projects outside the Kathmandu Valley on the basis of financial and managerial autonomy.

11.²⁰ Provisions relating to Chairperson and General Manager:

11.1 ²¹The Government of Nepal may designate or appoint the Chairperson of the Corporation.

11.2 ²²The Government of Nepal shall appoint the General-Manager of the Corporation.

11.3 The tenure of office of the Chairperson and the General-Manager shall be as fixed by the Government of Nepal.

11.4 The provisions relating to the remuneration and the terms and conditions of service of the Chairperson and the General-Manager shall be as prescribed.

12. Provisions relating to employees:

12.1 The Corporation may appoint employees as required.

12.2 The provisions relating to the remuneration and the terms and conditions of service of the employees of the Corporation shall be as prescribed.

²⁰ Amended by the First Amendment..

²¹ Amended by the First Amendment..

²² Amended by the First Amendment..

13. Restriction on the Board Members and the Employees of the Corporation:

No member of the Board or employee and consultant of the Corporation shall be entitled either directly or indirectly, to be a partner in contracts with the Corporation.

14. Fund of the Corporation:

14.1 There shall be a separate fund of the Corporation, which shall consist of the following amounts:

14.1.1 Amounts received from the Government of Nepal,

14.1.2 Amounts received from any foreign government or international or foreign agency through the Government of Nepal,

14.1.3 Amounts earned from the movable and immovable properties of the Corporation,

14.1.4 Fees and service charges received by rendering drinking water and sewerage facilities and the amounts of additional charges and fines,

14.1.5 Amounts received by the Corporation from any other source.

14.2 All the proceeds of the Corporation shall be deposited in the Nepal *Rastra* Bank or in a commercial bank in the name of the Corporation by opening an account therein.

14.3 All the expenses to be borne on behalf of the Corporation shall be borne out of the fund as referred to in Sub-section 14.1.

14.4 The operation of the accounts of the Corporation shall be as prescribed.

15. Accounts and audit of the Corporation:

15.1 The accounts of the Corporation shall be maintained in such format and manner as determined by the Board by obtaining permission from the Government of Nepal.

15.2 The audit of the accounts of the Corporation shall be carried out by the Office of the Auditor-General.

15.3 The Government of Nepal may, if it so wishes, examine or cause to be examined at any time documents relating to the books and accounts, and also the cash and kind of the Corporation.

16. To acquire land:

16.1 The Government of Nepal may acquire necessary land in accordance with the existing laws for the following purposes of the Corporation:

16.1.1 For the purpose of the construction of reservoirs,

16.1.2 For the purpose of the construction of any facility for drinking water and sewerage,

16.1.3 For the purpose of performing any other necessary function in connection with the accomplishment of the objectives of the Corporation.

17. Power to carry pipelines through public or private building and land:

- 17.1 If, in connection with the implementation of any project relating to drinking water or sewerage, it is rendered necessary to carry the pipelines of drinking water or sewerage from one place to another by laying the pipelines in any public or private building or land, the Corporation shall have the right to lay the pipelines as per the requirements of the project.
- 17.2 In laying the pipelines of drinking water or sewerage pursuant to Sub-section 17.1, the Corporation shall lay the pipelines in such a way that harm to the public or private building and land could be reduced to the minimum as may be practicable.
- 17.3 The Corporation shall, against the harm caused in connection with the laying of the pipelines of drinking water or sewerage, either pay compensation to the owner of the building or house at the rate of the prevailing value or repair the building or land so damaged and thereby restoring the same to its pre-existing condition.

18. Prohibition on activities:

- 18.1 No one shall carry out, or cause to be carried out, the activities mentioned herein below:
- 18.1.1 Destroying, damaging, or otherwise causing any harm to, any source of drinking water, reservoir or any other facility of drinking water and sewerage,
- 18.1.2 Polluting drinking water,

- 18.1.3 Fixing of the taps from the pipelines of drinking water without the permission of the Corporation,
- 18.1.4 Utilizing water by taking out the meter of drinking water without giving a notice to the Corporation,
- 18.1.5 Pulling water by fixing any equipment in the pipelines of drinking water,
- 18.1.6 Destroying, or causing damage to, the meter of drinking water,
- 18.1.7 Fixing the outlet of sewerage to the sewer without the permission of the Corporation or throwing or putting any solid material into the sewage in such manner as to stop the flow of the sewage,
- 18.1.8 Stealing of, destroying of, damaging of or causing any harm to, the pipelines of drinking water or sewerage managed by the Corporation,
- 18.1.9 Demolishing of destroying of or causing harm otherwise to, the outlet of sewer or manhole.
- 18.1.10 Making obstruction to the activities relating to drinking water or sewerage carried out by the Corporation.
- 18.1.11²³ Carrying out any constriction work in such manner as to cause harm to the pipelines land for the distribution of water or sewerage.

²³Inserted by the First Amendment.

19. Punishment:

19.1 A person acting, or causing to act, in contravention of the provisions of Sub-section 18.1.1 shall be punished with a fine not exceeding Ten Thousand Rupees or imprisonment for a term not exceeding Five years or with both and the amount in question shall be recovered from such a person.

19.2 The Corporation or any sub-committee as referred to in Section 10 and designated in that behalf by the Corporation may impose a fine on any person carrying out or causing to be carried out the activities mentioned herein below in the following way:

19.2.1 A fine not exceeding Ten Thousand Rupees against a person acting or causing to act in contravention of Sub-section 18.1.2,

19.2.2 A fine not exceeding Five Thousand Rupees against a person acting or causing to act in contravention of Sub-section 18.1.3,

19.2.3 A fine not exceeding Three Thousand Rupees against a person acting or causing to act in contravention of Sub-section 18.1.5 or 18.1.6,

19.2.4 A fine not exceeding Two Thousand Rupees against a person acting or causing to act in contravention of Sub-section 18.1.7,

19.2.5 A fine equivalent to the value of such stolen, destroyed or damaged goods plus an additional fine not exceeding Two

Thousand Rupees against a person acting or causing to act in contravention of Sub-section 18.1.8 or 18.1.9,

19.2.6 A fine not exceeding One Thousand Rupees against a person acting or causing to act in contravention of Sub-section 18.1.4 or 18.1.10,

19.2.7 A fine not exceeding One Thousand Rupees depending on the nature of the offence against a person acting or causing to act in contravention of the other provisions of this Act and by-laws made thereunder.

19.3 ²⁴The Corporation shall impose a fine not exceeding Five Thousand Rupees on a person acting or causing to act in contravention of Sub-section 18.1.11 and the Corporation may demolish such construction work on its own or cause the person doing such construction to demolish it. In cases where the Corporation has to demolish, it shall recover the cost incurred by it in connection with the demolition from the concerned person.

20. Appeal:

A person who is not satisfied with the order of punishment given pursuant to Sub-section 19.2 may prefer an appeal to the concerned Court of Appeal²⁵ within a period of thirty five days from the date of receiving the order of such punishment, and the decision of the Court of Appeal²⁶ shall be final.

²⁴ Inserted by the First Amendment

²⁵ Amended by the Administration of Justice Act, 2048.

²⁶ Amended by the Administration of Justice Act, 2048.

21. Power to recover as Government Due:

The Corporation may recover the fee, service charge, additional charge and the amount of fine as government due from a person who is in default of payment of the fee, service charge, additional charge imposed under this Act or the amount of fine imposed by the Corporation or a sub-committee pursuant to Section 19.

22. Delegation of power:

22.1 The Board may, as required, delegate its power under this Act or Rules²⁷ or Bye-laws made thereunder to the Chairperson, any member of the Board or any sub-committee.

22.2 The Chairperson or the General Manager²⁸ may, as required, delegate his or her powers to any officer-level employee of the Corporation.

23. Power of Government of Nepal to give directives:

The Government of Nepal may, from time to time, give directives to the Corporation. It shall be the duty of the Corporation to comply with such directives.

24. Power of Government of Nepal:

24.1 In cases where the Corporation acts, or is likely to act, in contravention of the provisions of this Act, the Government of Nepal may give order to stop such act.

²⁷ Inserted by the First Amendment.

²⁸ Amended by the First Amendment.

24.2 The Government of Nepal may liquidate the Corporation at any time whenever it is of the opinion that the Corporation has completed all the functions required to be performed by it or the Corporation has not discharged its duties and functions or has not complied with the order or directive or it is not necessary to retain the Corporation.

24.3 In cases where the Corporation is liquidated pursuant to Sub-section 24.2, the rights and liabilities of the Corporation shall be transferred to the Government of Nepal.

25. Liaison with Government of Nepal:

In maintaining liaison with the Government of Nepal, the Corporation shall do so through the Ministry of Housing and Physical Planning.

25A.²⁹ Power to make Rules:

The Government of Nepal may, in order to carry out the objectives of this Act, frame necessary Rules.

26. Power to make Bye-laws: The Corporation may, subject to the provisions of this Act and with the permission of the Government of Nepal, frame necessary bye-laws to regulate its internal procedures.

27. Winding Up:

27.1 After the commencement of this Act, the Drinking Water and Sewerage Corporation constituted by a Notification of the Ministry of Water Resources of the Government of Nepal published in Part 3, Year 34, Number 14 dated 1st of Shrawan of 2041 shall be liquidated.

²⁹ Inserted by the First Amendment.

- 27.2 The activities being carried out by the corporation liquidated pursuant to Sub-section 27.1 and the rights and liabilities of the corporation shall be transferred to the Corporation established under this Act.
- 27.3 The employees serving in the corporation liquidated pursuant to Sub-section 27.1 shall be transferred to the Corporation established under this Act.

NEPAL LAW COMMISSION