

Under Rule 130 of the Tamil Nadu Legislative Assembly Rules, the following Bill which was introduced in the Legislative Assembly of the State of Tamil Nadu on 11th August 2014 is published together with Statement of Objects and Reasons for general information:—

L.A. Bill No. 23 of 2014

A Bill further to amend the Laws relating to the Municipal Corporations and Municipalities and the Chennai Metropolitan Area Groundwater (Regulation) Act.

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Sixty-fifth Year of the Republic of India as follows:—

PART-I.

PRELIMINARY.

1. (1) This Act may be called the Tamil Nadu Municipal Laws and the Chennai Metropolitan Area Groundwater (Regulation) Amendment Act, 2014.

Short title and commencement.

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

PART-II.

AMENDMENTS TO THE TAMIL NADU DISTRICT MUNICIPALITIES ACT, 1920.

Tamil Nadu Act
V of 1920.

2. In Section 223 of the Tamil Nadu District Municipalities Act, 1920 (hereafter in this Part referred to as the 1920 Act),—

Amendment of section 223.

(1) in the marginal heading, the expression “wells” shall be omitted;

(2) in sub-section (1), the expression “well” shall be omitted.

3. After section 223 of the 1920 Act, the following sections shall be inserted, namely:—

Insertion of new sections 223-A and 223-B.

“223-A. Grant of permit to sink well.—(1) No person shall, either himself or through any person on his behalf engage in sinking any well in any area of third grade municipality, town panchayat or municipality for any purpose without obtaining a permit from the executive authority:

Provided that this sub-section shall not apply for sinking of well for domestic purpose:

Provided further that this sub-section shall not apply to the revenue villages specified in the Schedule to the Chennai Metropolitan Area Groundwater (Regulation) Act, 1987 (Tamil Nadu Act 27 of 1987).

(2) Any person desiring to sink a well shall apply to the executive authority, for grant of permit for this purpose and shall not proceed with any activity connected with such sinking of well, unless a permit has been granted by the executive authority.

(3) Every application for grant of permit shall be made in such form and contain such particulars as may be prescribed, and shall be accompanied by such fee not exceeding five thousand rupees as may be prescribed.

(4) On receipt of an application under sub-section (2), the executive authority may grant, subject to such conditions and restrictions as it may specify, a permit authorising sinking of well or refuse to grant such permit:

Provided that no permit shall be refused unless the applicant has been given an opportunity of being heard.

(5) The decision regarding the grant or refusal to grant the permit shall be intimated by the executive authority to the applicant within such period as may be prescribed.

(6) Any person aggrieved by the decision of the executive authority under sub-section (5) may, within such period and in such manner as may be prescribed, appeal to such authority as may be specified by the State Government, by notification, in this behalf.

(7) The owner of every well in use or disuse shall follow such safety measures, as may be prescribed.

223-B. Grant of certificate of registration.—(1) Every person desiring to carry on the business of sinking well in any area of third grade municipality, town panchayat or municipality shall apply to the Collector for grant of a certificate of registration.

(2) Every application for grant of a certificate of registration shall be made in such form and contain such particulars as may be prescribed and shall be accompanied by such fee not exceeding fifteen thousand rupees as may be prescribed.

(3) On receipt of an application under sub-section (1), the Collector may grant, subject to such conditions and restrictions as may be specified, a certificate of registration or refuse to grant the certificate of registration:

Provided that no certificate of registration shall be refused unless the applicant has been given an opportunity of being heard.

(4) The decision regarding the grant or refusal to grant the certificate of registration shall be intimated by the Collector to the applicant within such period as may be prescribed.

(5) Any person aggrieved by the decision of the Collector under sub-section (4) may, within such period and in such manner as may be prescribed, appeal to such authority as may be specified by the State Government, by notification, in this behalf.

(6) Every person carrying on the business of sinking well shall, while sinking a well or on completion of sinking a well, follow such safety measures, as may be prescribed.

Explanation.— For the purpose of Sections 220, 223-A and 223-B,—

(a) “sink” with all its grammatical variations and cognate expressions includes digging, drilling, boring or deepening;

(b) “well” means a well sunk for search or extraction of groundwater and includes an open well, dug well, bore well, dug-cum-bore well, tube well, filter point, collection well or infiltration gallery, but does not include a well sunk by the State Government or Central Government for carrying out scientific investigation, exploration, development or management work for the survey and assessment of groundwater resources;

(c) “person” includes a company or association of individuals, whether incorporated or not.”.

4. After Section 316 of the 1920 Act, the following section shall be inserted, namely:—

"316-A. Penalty for sinking well without permit or registration.— Whoever contravenes any of the provisions of Section 223-A or 223-B or the rules made thereunder shall, on conviction, be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and with fine which may extend to fifty thousand rupees.".

PART-III.

AMENDMENTS TO THE MADURAI CITY MUNICIPAL CORPORATION ACT, 1971.

Tamil Nadu Act
15 of 1971.

5. In section 331 of the Madurai City Municipal Corporation Act, 1971 (hereafter in this Part referred to as the 1971 Act),—

Amendment of
section 331.

- (1) in the marginal heading, the expression "wells" shall be omitted;
- (2) in sub-section (1), the expression "well" shall be omitted.

6. After section 331 of the 1971 Act, the following sections shall be inserted, namely:—

Insertion of
new
sections
331-A and
331-B.

"331-A. Grant of permit to sink well.— (1) No person shall, either himself or through any person on his behalf engage in sinking any well in any area in the city of Madurai for any purpose without obtaining a permit from the commissioner:

Provided that this sub-section shall not apply for sinking of well for domestic purpose.

(2) Any person desiring to sink a well shall apply to the commissioner, for grant of permit for this purpose and shall not proceed with any activity connected with such sinking of well, unless a permit has been granted by the commissioner.

(3) Every application for grant of permit shall be made in such form and contain such particulars as may be prescribed, and shall be accompanied by such fee not exceeding five thousand rupees as may be prescribed.

(4) On receipt of an application under sub-section (2), the commissioner may grant, subject to such conditions and restrictions as he may specify, a permit authorising sinking of well or refuse to grant such permit:

Provided that no permit shall be refused unless the applicant has been given an opportunity of being heard.

(5) The decision regarding the grant or refusal to grant the permit shall be intimated by the commissioner to the applicant within such period as may be prescribed.

(6) Any person aggrieved by the decision of the commissioner under sub-section (5) may, within such period and in such manner as may be prescribed, appeal to such authority as may be specified by the Government, by notification, in this behalf.

(7) The owner of every well in use or disuse shall follow such safety measures, as may be prescribed.

331-B. Grant of certificate of registration.- (1) Every person desiring to carry on the business of sinking well in any area in the city of Madurai shall apply to the commissioner for grant of a certificate of registration.

(2) Every application for grant of a certificate of registration shall be made in such form and contain such particulars as may be prescribed and shall be accompanied by such fee not exceeding fifteen thousand rupees as may be prescribed.

(3) On receipt of an application under sub-section (1), the commissioner may grant, subject to such conditions and restrictions as may be specified, a certificate of registration or refuse to grant the certificate of registration:

Provided that no certificate of registration shall be refused unless the applicant has been given an opportunity of being heard.

(4) The decision regarding the grant or refusal to grant the certificate of registration shall be intimated by the commissioner to the applicant within such period as may be prescribed.

(5) Any person aggrieved by the decision of the commissioner under sub-section (4) may, within such period and in such manner as may be prescribed, appeal to such authority as may be specified by the Government, by notification, in this behalf.

(6) Every person carrying on the business of sinking of well shall, while sinking a well or on completion of sinking a well, follow such safety measures, as may be prescribed.

Explanation.— For the purpose of Sections 329, 331-A and 331-B,—

(a) “sink” with all its grammatical variations and cognate expressions includes digging, drilling, boring or deepening;

(b) “well” means a well sunk for search or extraction of groundwater and includes an open well, dug well, bore well, dug-cum-bore well, tube well, filter point, collection well or infiltration gallery, but does not include a well sunk by the Government or Central Government for carrying out scientific investigation, exploration, development or management work for the survey and assessment of groundwater resources;

(c) “person” includes a company or association of individuals, whether incorporated or not.”.

7. After section 446 of the 1971 Act, the following section shall be inserted, namely:—

“446-A. Penalty for sinking well without permit or registration.— Whoever contravenes any of the provisions of Section 331-A or 331-B or the rules made thereunder shall, on conviction, be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and with fine which may extend to fifty thousand rupees.”.

PART-IV

AMENDMENTS TO THE COIMBATORE CITY MUNICIPAL CORPORATION ACT, 1981.

Amendment of section 331.

Tamil Nadu Act 25 of 1981.

8. In Section 331 of the Coimbatore City Municipal Corporation Act, 1981 (hereafter in this Part referred to as the 1981 Act),—

- (1) in the marginal heading, the expression “wells” shall be omitted;
- (2) in sub-section (1), the expression “well” shall be omitted.

9. After Section 331 of the 1981 Act, the following sections shall be inserted, namely:—

“331-A. Grant of permit to sink well.— (1) No person shall, either himself or through any person on his behalf engage in sinking any well in any area in the city of Coimbatore for any purpose without obtaining a permit from the commissioner:

Insertion of new sections 331-A and 331-B.

Provided that this sub-section shall not apply for sinking of well for domestic purpose.

(2) Any person desiring to sink a well shall apply to the commissioner, for grant of permit for this purpose and shall not proceed with any activity connected with such sinking of well, unless a permit has been granted by the commissioner.

(3) Every application for grant of permit shall be made in such form and contain such particulars as may be prescribed, and shall be accompanied by such fee not exceeding five thousand rupees as may be prescribed.

(4) On receipt of an application under sub-section (2), the commissioner may grant, subject to such conditions and restrictions as he may specify, a permit authorising sinking of well or refuse to grant such permit:

Provided that no permit shall be refused unless the applicant has been given an opportunity of being heard.

(5) The decision regarding the grant or refusal to grant the permit shall be intimated by the commissioner to the applicant within such period as may be prescribed.

(6) Any person aggrieved by the decision of the commissioner under sub-section (5) may, within such period and in such manner as may be prescribed, appeal to such authority as may be specified by the Government, by notification, in this behalf.

(7) The owner of every well in use or disuse shall follow such safety measures, as may be prescribed.

331-B. Grant of certificate of registration.—(1) Every person desiring to carry on the business of sinking well in any area in the city of Coimbatore shall apply to the commissioner for grant of a certificate of registration.

(2) Every application for grant of a certificate of registration shall be made in such form and contain such particulars as may be prescribed and shall be accompanied by such fee not exceeding fifteen thousand rupees as may be prescribed.

(3) On receipt of an application under sub-section (1), the commissioner may grant, subject to such conditions and restrictions as may be specified, a certificate of registration or refuse to grant the certificate of registration:

Provided that no certificate of registration shall be refused unless the applicant has been given an opportunity of being heard.

(4) The decision regarding the grant or refusal to grant the certificate of registration shall be intimated by the commissioner to the applicant within such period as may be prescribed.

(5) Any person aggrieved by the decision of the commissioner under sub-section (4) may, within such period and in such manner as may be prescribed, appeal to such authority as may be specified by the Government, by notification, in this behalf.

(6) Every person carrying on the business of sinking well shall, while sinking a well or on completion of sinking a well, follow such safety measures, as may be prescribed.

Explanation.— For the purpose of sections 329, 331-A and 331-B,—

(a) “sink” with all its grammatical variations and cognate expressions includes digging, drilling, boring or deepening;

(b) "well" means a well sunk for search or extraction of groundwater and includes an open well, dug well, bore well, dug-cum-bore well, tube well, filter point, collection well or infiltration gallery, but does not include a well sunk by the Government or Central Government for carrying out scientific investigation, exploration, development or management work for the survey and assessment of groundwater resources;

(c) "person" includes a company or association of individuals, whether incorporated or not.".

Insertion of
new section
445-A.

10. After section 445 of the 1981 Act, the following section shall be inserted, namely:—

"445-A. Penalty for sinking well without permit or registration.— Whoever contravenes any of the provisions of section 331-A or 331-B or the rules made thereunder shall, on conviction, be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and with fine which may extend to fifty thousand rupees.".

PART-V.

AMENDMENTS TO THE CHENNAI METROPOLITAN AREA GROUNDWATER (REGULATION) ACT, 1987.

Amendment of
section 3.

Tamil Nadu Act
27 of 1987.

11. In section 3 of the Chennai Metropolitan Area Groundwater (Regulation) Act, 1987 (hereafter in this Part referred to as the 1987 Act), after sub-section (7), the following sub-section shall be added, namely:—

"(8) The owner of every well in use or disuse shall follow such safety measures, as may be prescribed.".

Insertion of
new section
4-A.

12. After section 4 of the 1987 Act, the following section shall be inserted, namely:—

"4-A. Grant of certificate of registration.- (1) Every person desiring to carry on the business of sinking well in the scheduled area shall apply to the competent authority for grant of a certificate of registration.

(2) Every application for grant of a certificate of registration shall be made in such form and contain such particulars as may be prescribed and shall be accompanied by such fee not exceeding fifteen thousand rupees as may be prescribed.

(3) On receipt of an application under sub-section (1), the competent authority may grant, subject to such conditions and restrictions as may be specified, a certificate of registration or refuse to grant the certificate of registration:

Provided that no certificate of registration shall be refused unless the applicant has been given an opportunity of being heard.

(4) The decision regarding the grant or refusal to grant the certificate of registration shall be intimated by the competent authority to the applicant within such period as may be prescribed.

(5) Any person aggrieved by the decision of the competent authority under sub-section (4) may, within such period and in such manner as may be prescribed, appeal to such authority as may be specified by the Government, by notification, in this behalf.

(6) Every person carrying on the business of sinking well shall, while sinking a well or on completion of sinking a well, follow such safety measures, as may be prescribed.".

13. After section 10 of the 1987 Act, the following section shall be inserted, namely:—

Insertion of
new section
10-A.

“10-A. Penalty for sinking well without permit or registration.— Notwithstanding anything contained in section 10, whoever contravenes any of the provisions of section 3 or 4-A or the rules made thereunder shall, on conviction, be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and with fine which may extend to fifty thousand rupees.”.

STATEMENT OF OBJECTS AND REASONS.

Fatal accidents and death of small children have occurred due to the careless attitude of the owners of bore wells, tube wells and open wells and the agencies carrying on the business of sinking such wells. To regulate the sinking of bore wells, tube wells and open wells so as to prevent the occurrence of such unfortunate accidents, the Government have decided to make suitable provisions in the Urban Local Bodies' Acts. Accordingly, the Government have decided to amend the Tamil Nadu District Municipalities Act, 1920 (Tamil Nadu Act V of 1920), the Madurai City Municipal Corporation Act, 1971 (Tamil Nadu Act 15 of 1971), the Coimbatore City Municipal Corporation Act, 1981 (Tamil Nadu Act 25 of 1981) and the Chennai Metropolitan Area Groundwater (Regulation) Act, 1987 (Tamil Nadu Act 27 of 1987) suitably for the said purpose.

2. The Bill seeks to give effect to the above decision.

S.P. VELUMANI

*Minister for Municipal Administration,
Rural Development, Law,
Courts and Prisons.*

MEMORANDUM REGARDING DELEGATED LEGISLATION.

New sections 223-A and 223-B proposed to be inserted in the Tamil Nadu District Municipalities Act, 1920 (Tamil Nadu Act V of 1920) by clause 3 of the Bill, new sections 331-A and 331-B proposed to be inserted in the Madurai City Municipal Corporation Act, 1971 (Tamil Nadu Act 15 of 1971) by clause 6 of the Bill, new sections 331-A and 331-B proposed to be inserted in the Coimbatore City Municipal Corporation Act, 1981 (Tamil Nadu Act 25 of 1981) by clause 9 of the Bill and new sub-section (8) of section 3 and section 4-A proposed to be inserted in the Chennai Metropolitan Area Goundwater Regulation Act, 1987 (Tamil Nadu Act 27 of 1987) by clause 11 and clause 12 of the Bill authorise the Government to make rules and issue notifications for the purposes specified therein.

2. The powers delegated are normal and not of an exceptional character.

S.P. VELUMANI
*Minister for Municipal Administration,
Rural Development, Law,
Courts and Prisons.*

A.M.P. JAMALUDEEN,
Secretary.