

[AS PASSED BY THE SENATE]

A

Bill

Further to amend the Easements Act, 1882

WHEREAS it is expedient further to amend the Easements Act, 1882 (V of 1882) in its application to the Islamabad Capital Territory, for the purpose hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement:- (1) This Act shall be called the Easements (Amendment) Act, 2024.

(2) It shall come into force at once

2. Amendment of section 7, Act V of 1882.- In the Easements Act, 1882 (V of 1882), hereinafter called the said Act, after section 7, the followings shall be inserted, namely:-

" 7A. use of natural water by the Municipal of local Government.-

Use of water from natural stream, lake or pond as well as any existing aquifer, well or mechanized tube-well shall be regulated by the concerned Municipality or local government department of the province, as the case may be, under whose territorial jurisdiction it falls to ensure the equitable distribution of water to all and prevent the depletion of the groundwater table or over-extraction of groundwater.

Explanation.- For the purpose of this illustration,-

(a) "aquifer" refers to the rocks in which groundwater is stored;

(b) "natural stream" means a stream, whether permanent or intermittent, tidal or tide less, on the surface or land or underground, which flows by the operation of nature only and in a nature and known course; and

(c) The right to construct new wells or tube wells shall be regulated by the concerned Municipal department, as the case may be."

3. Addition of new sections.- In the said Act, after section 64, the following new sections 65 and 66 shall be added, namely:-

"65. Power to make rules.- The Government may by notification in the official Gazette, make rules for carrying out the purposes of this Act.

66. Power to make regulations.- The Municipal department or Local Government department concerned may by notification in the official Gazette, after approval of the Government may formulate regulations to carry out the purposes of this Act."

STATEMENT OF OBJECTS AND REASONS

The total groundwater potential of Pakistan is about 68 bm³, out of which 60 bm³ is currently exploited. This indicates that the groundwater resource is almost exhausted, because the remaining groundwater is in the regions where it is not easy to abstract due to economic and technical reasons.

2. The Easements Act, 1882 is a pre-Independence legislation that is based on the principle that ownership of groundwater flows from the ownership of land. Section 7 (g) of the Act provides every landowner with the right to collect and dispose, within his own limits, all water under the land and on the surface. This private ownership of groundwater has led to its unregulated use, which has resulted in over extraction of water and a depletion of the water table.

3. In this context, it must be noted that the Under provision of Article 38(d) of the Constitution, it is the primary duty of Government to provide people basic necessities of life which includes unpolluted water for their consumption. This means that the Government should be the ultimate guardian of all natural resources, including groundwater, to prevent over-extraction and ensure equitable distribution.

4. It is the prerogative of the Federal as well as provincial legislatures to amend or enact laws pertaining to ground water management and regulation that are in line with the public trust doctrine, as set out under this Act.

5. The Bill has been designed to achieve the aforementioned purpose.

**SENATOR SEEMEE EZDI
MEMBER IN CHARGE**