

THE WATER SUPPLY AND SANITATION ACT, 2009

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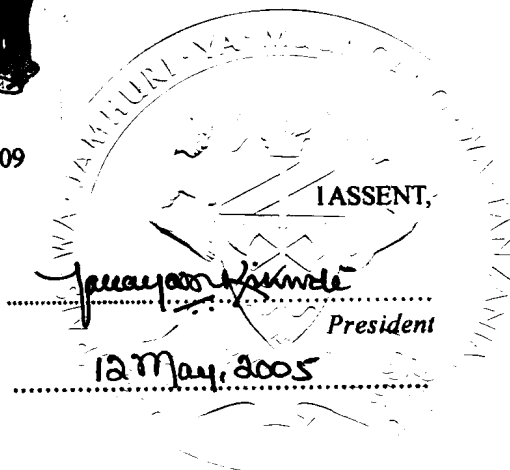
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SCHEDULES

THE UNITED REPUBLIC OF TANZANIA



NO. 12 OF 2009



An Act to provide for sustainable management and adequate operation and transparent regulation of water supply and sanitation services with a view to give effect to the National Water Policy, 2002; to provide for the establishment of water supply and sanitation authorities as well as community owned water supply organisations; to provide for appointment of service providers, repeal of the Waterworks Act and to provide for related matters.

ENACTED by Parliament of the United Republic of Tanzania.

PART I

PRELIMINARY PROVISIONS

1. This Act may be cited as the Water Supply and Sanitation Act, 2009, and shall come into operation on such date as the Minister may, by notice published in the *Gazette*, appoint.

Short
title
and
commen-
cement

Applica-
tion

2. This Act shall apply to Mainland Tanzania.

Interpre-
tation

3. In this Act, unless the context requires otherwise-

"appurtenances" means pipes, cisterns, cocks, fittings and other appliances or structures, other than meters, through which water flows or is intended to be used for the purpose of supplying any premises from the waterworks;

"authorised person" means an officer, servant or agent or any person acting on behalf of the water authority or EWURA;

"Board" means the Board of Directors of a Water Supply and Sanitation Authority established by section 9;

"Chairman" means the Chairman of the Board of a Water Supply and Sanitation Authority and includes the Vice-Chairman and any person presiding at a meeting of the Board;

"cluster" means the grouping of water supply and sanitation authority in a number of local government areas under one statutory or autonomous body;

"community" means a group of households, a village or a group of villages who receive their water supply from a common source or one or more water points or a waterworks;

"community organisation" means a community owned water supply organisation established under section 31;

"consumer" includes any person or body of persons supplied or applying to be supplied with or using water from waterworks or receiving sanitation services or who is liable for payment of any fees or other charges for the supply or use of water or sanitation services;

"domestic purposes" includes the use of water solely for the purpose of meeting household and domestic needs and excludes any commercial activities;

"EWURA" means the Energy and Water Utilities Regulatory Authority established under the Energy and Water Utilities Regulatory Authority Act;

"fire service" means any pipes and fittings used for the sole purpose of supplying water to premises to combat fire;

"household" means premises which are occupied by a family unit for domestic purposes;

- "local government authority" means a district authority or an urban authority as established under the Local Government (District Authorities) Act and the Local Government (Urban Authorities) Act; Cap. 414
- "mains" includes any water pipe owned and maintained by a water supply and sanitation authority including connections to the mains;
- "Managing Director" means the Managing Director of a Water Supply and Sanitation Authority appointed in accordance with section 17 (1);
- "meter" means an appliance, apparatus or device used to measure, ascertain or regulate, the rate of flow or the amount of water taken or used from the waterworks and includes any meter box, meter box cover and indicator marking the position and size of such meter; Cap. 287
Cap. 288
- "Minister" means the Minister responsible for water;
- "national schemes" means major water supply and sanitation schemes which rely on the distribution of water to a large number of urban and rural communities where community ownership under Part VII of this Act is not practicable;
- "occupier" means any person who is in occupation of the land or premises in connection with which the term is used;
- "owner" in relation to any premises, means the owner of the premises or the person for the time being receiving the rent in respect of the premises in question, whether on his own account or as agent or trustee for any other person, or who would receive it where the premises were let at a rent;
- "pollute" means directly or indirectly to alter the physical thermal, chemical, biological or radioactive properties of water so as to render such water less fit for any beneficial purpose for which it is or may reasonably be used or cause a condition which is hazardous or potentially hazardous to public health, safety welfare or to animals, birds, fish or aquatic life, or organism or to plant and "pollution" has corresponding meaning;
- "premises" means any structure, building or part of a building, and includes any land with or without buildings which is held or occupied as a distinct or separate holding or tenancy;
- "private sewer" includes a privately constructed pipe, conduit, underground gutter or channel, other than a building sewer, which may be connected to a private sewerage installation-

- (a) for the conveyance of sewage or trade waste; or
- (b) for other private purposes and not being part of a public sewerage system vested in or constructed by a water authority;

- "private sewerage installation" includes privately constructed latrine, septic tank or other sewerage system and all fittings connected thereto but does not include a building sewer;
- "public tap" means any fountain, standpipe, tap, trough, valve or other appliance or structure erected, provided or maintained by or on behalf of a water supply and sanitation authority or a community owned water supply organisation for the purpose of supplying water to its consumers;
- "sanitation" means the provision of appropriate facilities and services for the collection and disposal of human excreta and waste waters;
- "sanitation works" means sewers, drains, pipes, ducts or channels, whether open or closed, used for the drainage of human excreta or waste waters from buildings or land and on-site systems for the reception of human excreta and waste waters which do not connect to a sewer;
- "service provider" means a service provider appointed in accordance with sections 19 and 35;
- "sewer" means any pipe or conduit other than a drain used, or for use, for the conveyance of sewage;
- "trade waste agreement" means an agreement between a water authority and any person for the discharge of waste into a sewer or storage or treatment of waste by the water authority, and shall include such terms, manner and periods as the water authority may decide or as may be prescribed;
- "water authority" means a water supply and sanitation authority established under section 9;
- "water point" means a single source of water, which may be a well, a borehole, a tap or a public tap;
- "water supply" means the provision of appropriate facilities and services for the sourcing, treatment and distribution of potable water;
- "waterworks" includes all gathering grounds, off-takes, reservoirs, dams, weirs, tanks, cisterns, tunnels, filter beds, conduits, aqueducts, mains, pipes, meters, fountains, sluices, valves, hydrants, pumps, prime movers and all other structures and appliances used or constructed for the storage, conveyance, supply, measurement or regulation of water, which are used or have been constructed by or on behalf of a water supply and sanitation authority or a community owned water supply organisation; and

"waterworks area" means any area of land or of water delineated by the Minister as an area connected with the supply of any waterworks.

PART II

OBJECTIVE AND PRINCIPLES

4.- (1) The objective of this Act is to promote and ensure the right of every person in Tanzania to have access to efficient, effective and sustainable water supply and sanitation services for all purposes by taking into account the following fundamental principles, namely-

Objective
and
principles

- (a) creation of an enabling environment and appropriate incentives for the delivery of reliable, sustainable and affordable water supply and sanitation services;
- (b) delegation of management functions of water supply and sanitation services to the lowest appropriate levels taking into account the local government administrative systems;
- (c) ensuring that water supply and sanitation authorities are financially and administratively autonomous and sustainable;
- (d) transferring ownership of water supply schemes in rural areas to the respective communities and enabling all the beneficiaries and stakeholders to participate effectively in the management of community water supply schemes;
- (e) establish mechanisms to ensure that communities meet the costs of operation and maintenance of their water supply systems and contribute to the capital costs thereof;
- (f) promotion of public sector and private sector partnership in provision of water supply and sanitation services;
- (g) establishment and enforcement of standards of service in water supply and sanitation services;
- (h) regulation of suppliers of water supply and sanitation services;
- (i) protection and conservation of water resources and development and promotion of public health and sanitation; and

- (j) protection of the interests of customers.

(2) All persons exercising powers under this Act or under any written law having a bearing on the provision of water supply and sanitation services shall strive to promote and have regard to the National Water Policy, 2002, in respect of urban water supply and sanitation and rural water supply.

PART III

ADMINISTRATION AND INSTITUTIONAL SET UP

Powers
of the
Minister

5. The Minister shall be responsible for formulation of national policy and strategy and for ensuring the execution by authorities or persons under the control of the Minister of their functions connected with the implementation of the Act and in particular the Minister shall-

- (a) determine legislative aspects of the provision of water supply and sanitation services;
- (b) determine policy and strategy aspects of the provision of water supply and sanitation services;
- (c) coordinate and provide technical and financial support for construction of water supply and sanitation schemes, and expansion or rehabilitation of existing schemes of national importance;
- (d) secure capital finance for schemes of national importance;
- (e) ensure the provision of technical guidance to local government authorities and water authorities;
- (f) coordinate and monitor water authority strategies and plans; and
- (g) monitor performance of and regulate community owned water supply organisations.

6. The Minister responsible for local government shall be responsible for ensuring the execution by local government authorities functions connected with the implementation of the Act and in particular shall-

Responsibility of the Minister responsible for local government

- (a) supervise implementation of the provision of water supply and sanitation services;
- (b) coordinate planning and resource mobilisation for water supply and sanitation authorities and community owned water supply organisations through local government budgets, external support agencies, non -government organisations and the public;
- (c) facilitate provision of low cost appropriate technologies for water supply and sanitation services to communities; and
- (d) create a conducive environment for community and private sector participation in development, operation and management of water supply and sanitation services in accordance with the provisions of this Act.

7. Without prejudice to the general powers of the Regional Secretariat, under the Regional Administration Act every Regional Secretariat shall have the following responsibilities in respect of this Act-

Responsibilities of regional secretariats

- (a) provision of expertise advice and guidance to local government authorities on water supply and sanitation matters;
- (b) monitoring and evaluating projects of local government authorities and providing technical backstops; and
- (c) overseeing and compiling local government authorities plans and reports and forwarding the same to the Minister.

Cap. 97

8.-(1) Without prejudice to the provisions of the local government authorities under the Local Government (District Authorities) Act, and Local Government (Urban Authorities) Act-

Functions of local government authorities
Cap Nos. 287 & 288

- (a) water supply and sanitation authority established under Section 9, the Urban Authority established under the Local Government (Urban Authority Act) and the District Authority established under

the Local Government (District Authority Act) shall-

- (i) coordinate the budgetary requirements of the water authorities with local authority budgets;
 - (ii) disburse block grants to the water authorities; and
 - (iii) coordinate physical planning with the water authorities;
- (b) community owned water supply organisations established under section 31, District Councils shall-
- (i) facilitate the registration of community organisations as provided for under section 34 and maintain the register for the respective local government authority;
 - (ii) facilitate the acquisition by communities desirous of owning and managing their water schemes of certificates of title prior to the communities taking over responsibility;
 - (iii) mobilise communities to take over water supply schemes and provide technical and financial support;
 - (iv) promote the provision of sanitation facilities in the areas of community owned water supply schemes; and
 - (v) regulate the performance of community organisations in accordance with Part VII of this Act;
- (c) community owned water supply organisations established under section 31, village councils shall-
- (i) promote the establishment of community organisations as provided for under section 31;
 - (ii) co-ordinate community organisation budgets with village council budgets; and
 - (iii) resolve conflicts arising within the community organisations.

(2) The local government authorities may make by-laws in relation to water supply and sanitation to give effect to the efficient and sustainable provision of these services in their areas of jurisdiction by water authorities or community based organisations.

PART IV

WATER SUPPLY AND SANITATION AUTHORITIES

(a) Establishment of Water Supply and Sanitation Authorities

9.-(1) The Minister may, in consultation with the Minister responsible for local government authority and by notice in the *Gazette*-

Establishment of Water Authority

- (a) establish water authority; and
- (b) cluster water authorities in order to achieve commercial viability.

(2) The service area of a water authority established pursuant to subsection (1) may include the administrative boundaries of one or more local government authorities as may be determined in accordance with this Act or other written laws for the most efficient and economical provision of water supply and sanitation services.

(3) The Minister may declare any water authority established under subsection (1) to be a commercial water supply and sanitation authority basing on the criteria as the Minister may determine.

(4) The declared commercial water authority shall be financially autonomous depending on the commercial viability of providing water and sewerage services.

(5) The water authority shall be a body corporate with perpetual succession and a common seal and shall have power, in and by its corporate name, to sue and be sued and, in the exercise and performance of its powers and functions, to do and permit all such things as may lawfully be done or permitted by a body corporate in furtherance of its objects.

(6) Without prejudice to the provisions of subsection (1), a water authority established prior to the commencement of this Act shall continue to operate and for all purposes and intent be treated as though it was established under this Act.

10.-(1) There shall be a Board of Directors for each water authority responsible for carrying out the functions and managing the business and affairs of the water authority.

Board of Directors of authorities

(2) The First Schedule shall have effect in respect to the membership and procedure of the Board of the water authority.

Appoint-
ment of
members
of the
Board

11. The Minister shall, upon consultation with the regional administration or the relevant local government authority, appoint the chairman and members of the Board of the water authority other than those whose membership is by virtue of office held.

Powers
of the
Board
to
delegate

12.-(1) The Board shall be responsible for the management of the water authority.

(2) Subject to subsection (6), the Board may, by instrument, appoint and delegate on such terms and conditions as it may specify, to any of the employees of the water authority or any committee appointed by it any of the functions, powers, authorities or duties conferred upon it by or under this Act .

(3) Where any delegation is made under subsection (2) the delegated function, power, authority or duty may be performed or as the case may be, exercised as such subject to the terms, conditions and restrictions specified in writing by instrument of delegation.

(4) The Board may revoke a delegation made under this section.

(5) No delegation so made shall prevent the Board from itself performing or exercising the function, power or duty delegated.

(6) The Board shall not delegate its function, power, authority or duty in relation to-

- (a) approval of plan and budget;
- (b) approval of the annual report or audited accounts; or
- (c) borrowing the sums of money as may be necessary for the water authority.

Obligation
to provide
water
supply and
sanitation
services

13-(1) Notwithstanding any other law to the contrary and subject to the other provisions of this Act, a water authority shall do all things necessary to provide water supply and sanitation services to the area falling under its jurisdiction, except where-

- (a) a person provides such services solely for that person's own use; or
- (b) a community owned water supply organisation established in accordance with section 31 provides such services for a defined area within the water authority's area of jurisdiction.

(2) It shall be lawful for members of the community in areas within the water authority approved areas of jurisdiction where operators of water supply services do not extend to abstract and use water from that community source even if the operator has lawful access:

Provided that such serviced area is known and approved by the water authority.

14. A water authority shall not operate except in accordance with this Act and under the authority of a licence issued by EWURA.

Licensing of authorities
Cap. 414

15.- (1) A water authority shall, as a licensee, be responsible for the efficient and economical provision of water supply and sanitation services authorised by the licence.

Powers and functions of authorities

(2) Water supply and sanitation services authorised by a licence may be provided by a service provider appointed under section 19.

(3) Without prejudice to the generality of section 14 a water authority may, for the purpose of the provision of water supply and sanitation services and in accordance with its business plan under section 29 (2)

- (b)-
 - (a) purchase, lease or otherwise acquire premises, plant, equipment and facilities; and
 - (b) purchase, lease or otherwise acquire land, or arrange for compulsory acquisition of land under section 21.

(4) A water authority shall have such other powers and functions as may be conferred or imposed on it by or under this Act or any other written law.

16.- (1) The ownership of waterworks, plant, equipment and other assets used by the Government or local government authorities in

Transfer of existing assets

connection with water and sanitation services shall, without any compensation of costs incurred, be transferred to the water authority upon its establishment together with any associated liabilities.

(2) Notwithstanding the provisions of subsection (1), the Minister responsible for finance, in consultation with the Minister may decide not to transfer associated liabilities to a water authority where such a transfer would unduly prevent the water authority from carrying out its functions on a commercially sound basis.

Managing
Director

17. (1) There shall be a Managing Director of the water authority who shall be appointed by the Minister on recommendation of the Board for a term not exceeding four years, as may be specified in the instrument of appointment, but shall be eligible for re-appointment.

(2) The Board shall make the recommendation in subsection (1) on the basis of a competitive recruitment process and shall provide evidence thereof as may be required by the Minister.

(3) The Managing Director shall be a person who-

- (a) possesses the relevant experience and knowledge of the functions of water supply and sanitation authorities; and
- (b) in the opinion of the Board, is suitable to perform the functions and duties competently and with integrity.

(4) The Managing Director shall be the principal officer of the water authority and, subject to the directions of the Board, shall be responsible for the day to day management of the affairs of the water authority.

Staff of
a water
supply
and
sanitation
authority

18. The Board may appoint such number of staff on the basis of qualifications, experience and merit as may be necessary for the proper and efficient conduct of the business and activities of the water authority and upon such terms and conditions as it may determine.

Appoint-
ment of
service
providers

19.-(1) For the purposes of section 15(2) a water authority may, in accordance with this section, arrange for the exercise and performance of all or any of its powers and functions under the licence by one or more agents, to be known as service providers.

(2) The agreement shall specify the powers and functions under the licence which shall be performed by the service provider during the

currency of the agreement.

(3) The agreement may also make provision for or with respect to-

(a) the concurrent performance, by the water authority and the service provider, of the same functions in different parts of the area of jurisdiction of the water authority;

(b) the indemnity by the service provider of any liability of the water authority arising from the performance or non-performance of functions conferred by the licence and;

(c) the maintenance, rehabilitation and development, by the service provider, of water and sanitation infrastructure and facilities of the water supply and sanitation authority.

(4) The water authority may enter into agreements with more than one service provider in respect of its area of jurisdiction.

(5) A power or function conferred by a licence or otherwise conferred by or under this Act which, pursuant to an agreement may be exercised or performed by a service provider shall be deemed, when exercised or performed by the service provider, to have been exercised or performed under the authority of the licence.

(b) Functions of Water Supply and Sanitation Authorities

20. The functions of a water authority shall be to-

(a) provide water supply for uses as are required by this Act or any other written law dealing with the management of water resources, water quality standards and the environment;

(b) secure the continued supply of water for all lawful purposes by continuously treating the water and monitoring the quality of water supplied at such times and in such a manner as may be prescribed in the water quality standards or rules made under this Act;

(c) develop and maintain waterworks and sanitation works;

(d) protect and maintain water sources;

(e) advise the Government in the formulation of policies and guidelines relating to potable water standards;

(f) plan and execute new projects for the supply of water and the

Functions
of water
supply
and
sanitation
authority

- provision of sanitation;
- (g) educate and provide information to persons on public health aspects of water supply, water conservation, sanitation, and similar issues;
 - (h) liaise with local government authorities on matters relating to water supply and sanitation and the preparation and execution of plans relating to the expansion thereof;
 - (i) collect fees and levies including any regulatory levy for water supply and sanitation services supplied to consumers by the water authority;
 - (j) propose water supply and sanitation tariffs;
 - (k) provide amenities or facilities which the water authority considers necessary or desirable for persons making use of the services or the facilities provided by the water authority; and
 - (l) do anything or enter into any transaction which, in the opinion of the Board of the water authority, is calculated to facilitate the proper exercise of the functions of the water authority under this Act.

(c) Powers and Duties of Water Supply and Sanitation Authorities

Powers
and duties
of water
supply
and
sanitation
authority

21.-(1) Pursuant to the general obligations of a water authority to do all things necessary to provide water supply and sanitation services to the area falling under its jurisdiction a water authority shall have powers inter alia to-

- (a) keep custody, acquire, including through compulsory purchase, construct and operate waterworks and sanitation works;
- (b) have way leave to enter any land for the purpose of laying water mains or sewers, or erecting a public tap;
- (c) install water meters for the purpose of measuring the amount of water supplied to a consumer;
- (d) charge fees for services rendered;
- (e) enter into an agreement with the owner or occupier of land for more effectively collecting, conveying or preserving the purity

of water which the water authority is authorised to take;

- (f) restrict, diminish, withhold or suspend the supply of water;
- (g) supply water fittings to any person to whom a water authority supplies water;
- (h) enter into a trade waste agreement for the discharge of waste into a sewerage system;
- (i) prohibit the discharge of certain wastes into a sewerage system;
- (j) enter premises for any purpose related to the provision of water supply and sanitation services to consumers; and
- (k) promulgate by-laws for the better performance of functions stipulated under this Act.

(2) Where water authority or service provider has in relation to any land, taken steps towards fulfilment of conditions stipulated under subsection (1), it shall assume control over ten metres of such land being five metres from the edge of each side of the main pipe and 4 metres being 2 metre from the edge of each side of the secondary pipe and one meter being half a metre from the edge of each side of tertiary and no person shall be permitted to enter and stay or do anything upon that land without the permission of the water authority or service provider, as the case may be.

22.-(1) In the exercise of powers and the discharge of duties under section 21, a water authority shall take into account the existence and needs of the economically disadvantaged persons when-

- (a) supplying water and sanitation services to these persons;
- (b) setting tariffs and other charges for water supply and sanitation services; and
- (c) taking any action in any matters likely to have a negative effect on the economic well being of such groups.

Services to economically disadvantaged persons

(2) The economically disadvantaged persons shall be identified by the water authority in collaboration with the local government authority.

PART V

FINANCIAL PROVISIONS FOR WATER AUTHORITIES

Funds of
an
authority

- 23.** The funds and resources of a water authority shall consist of-
- (a) the sums as may be appropriated by Parliament for the purposes of a water authority;
 - (b) any sums which a water authority may receive as fees, rates or charges for water supplied or any services rendered by it;
 - (c) the sums or property which may vest in a water authority under this Act or any other written law or otherwise vested in a water authority;
 - (d) the sums as may be received from the local government authorities in its area of responsibility;
 - (e) the sums as may be borrowed by the water authority from any source;
 - (f) the donations, grants, bequests and loans as the Board may, receive from any person or body of persons; and
 - (g) any other sources legally acquired in the process of performance of its functions .

Annual
and
supple-
mentary
budget

24.-(1) Not less than two months before the beginning of every financial year, the Board shall, at a meeting, pass a detailed annual budget of the amounts expected to be received disbursed the water authority during the next financial year and where circumstances so require, the Board may pass a budget in any financial year.

(2) Where in any financial year a water authority requires to make any disbursement not provided for, or of an amount in excess of the amount provided for in the annual budget for any year, the Board shall, at a meeting, pass a supplementary budget detailing such disbursement.

(3) Where a water authority is in receipt of sums appropriated by Parliament for the purposes of meeting part of the authority's direct or indirect costs under the arrangements pending transfer in section 56(2), the annual budget shall be endorsed by the Minister or the Minister

responsible for local government after approval by the Board.

(4) The annual budget prepared under this section and any division made in accordance with section 29 shall form part of the business plan to be submitted to EWURA.

25. (1) The Board of a water authority shall in every financial year cause to be provided and kept proper books of account in accordance with the Public Audit Act.

Accounts and audit Act No. 7 of 2007

(2) Within six months of the close of every financial year the accounts including the balance sheet of a water authority shall be audited by the Controller and Auditor General in accordance with the provisions of the Public Audit Act.

(3) Every audited balance sheet shall be placed before a meeting of the Board and, where adopted by the Board, be endorsed with a certificate that it has been adopted.

(4) As soon as the accounts of a water authority have been audited, and in any case not later than six months after the close of the financial year, the Board shall submit to the Minister and the Minister responsible for local government a copy of the audited statement of accounts together with a copy of the report on that statement made by the auditors.

26.-(1) A water authority shall cause to be prepared and submitted to the Minister and the Minister responsible for local government within six months after the close of each financial year an annual report detailing generally activities and operations of the water authority during that year.

Annual report

(2) The report shall be accompanied by-

- (a) a copy of the audited accounts of the water authority together with the auditor's report on the accounts;
- (b) a statement of all directions given by EWURA to the water authority during a year in question; and
- (c) such other information as EWURA may direct.

(3) A water authority shall also submit to EWURA and the Minister

responsible for local government such other reports on its financial affairs as EWURA may by writing request.

(4) The Minister shall, as soon as practicable after receiving the report, lay before the National Assembly the audited accounts of a water authority together with the auditor's report, where any, on the accounts and the annual report of the water authority.

(5) A copy of the report submitted to the Minister responsible for local government in accordance with subsection (1) shall be submitted to each local government authority situated in the area of jurisdiction of the water authority.

PART VI

ENERGY AND WATER UTILITIES REGULATORY AUTHORITY

(a) Regulation of Functions

Applica-
tion of
Energy
and Water
Utilities
Regulatory
Act
Cap. 414

27. The water authority shall, in performance of its functions under this Act, be subject to regulation by the Energy and Water Utilities Regulatory Authority in accordance with the Energy and Water Utilities Regulatory Act.

Functions
of
EWURA
Cap. 414

28.-(1) Notwithstanding the generality of the functions of EWURA stipulated under the Energy and Water Utilities Regulatory Authority Act, the functions conferred on EWURA in relation to water supply and sanitation services shall be to-

- (a) exercise licensing and regulatory functions in respect of water supply and sanitation services;
- (b) establish standards relating to equipment attached to the water and sanitation system;
- (c) establish guidelines on tariffs chargeable for the provisions of water supply and sanitation services;
- (d) approve tariffs chargeable for the provision of water supply and

- sanitation services;
- (e) monitor water quality and standards of performance for the provision of water supply and sanitation services;
 - (f) initiate and conduct investigations in relation to the quality of water and standards of services given to consumers;
 - (g) conduct studies necessary for administrative or management purposes;
 - (h) collect and compile data on licensees as it considers necessary for the performance of its functions under this Act;
 - (i) issue orders or give directions to any person granted a licence in respect of a regulated activity under this Act or other written law;
 - (j) subject to Section 20(i), charge levies, and fees applicable to water authority and other sector participants in respect of regulatory activities of the EWURA charged in accordance with section 41 of the Energy and Water Utilities Regulatory Authority Act;
 - (k) establish or approve standards and codes of conduct in respect of
 - (i) licenses;
 - (ii) consumers; and
 - (iii) public safety;
 - (l) promote the development of water supply and sanitation services in accordance with recognised international standard practices and public demand;
 - (m) prescribe rules and declaration and cause the same to be published in the *Gazette* and in at least one Kiswahili language and one English language newspaper circulating in a water authority's area of jurisdiction; and
 - (n) perform other functions which are incidental or ancillary to the functions stipulated under this Section.
- (2) Notwithstanding the provisions of the Energy and Water Utilities Regulatory Authority Act, the annual report prepared for submission to

the Minister responsible for EWURA shall, in respect of regulation of water authorities and services, include-

- (a) a comparative analysis of the performance of licensees in relation to performance targets specified in the licences;
- (b) a statement of all directives and orders given by EWURA to licensees during the year in question; and
- (c) any other information as may be directed by EWURA.

Procedure
for
obtaining
a licence

29.-(1) No person other than a community organisation shall provide water supply and sanitation services except under authority of a licence issued under this Act.

(2) EWURA shall prescribe the procedure and a form for use in making such an application, which shall include the following particulars to be furnished by the applicant-

- (a) the technical and financial capability of the applicant and any service provider to be engaged if any;
- (b) a business plan which shall include inter alia-
 - (i) the objective of the plan;
 - (ii) the overall strategies and policies the applicant is to follow to achieve those objectives.

(3) EWURA shall prescribe the rules and procedures for monitoring and reviewing the business plan submitted in accordance with subsection (2)(b).

(4) Subject to section 30 or other applicable law, a licence issued under this section shall be valid for a minimum period of ten years and shall be renewed for the same period where the applicant has been complying with licence conditions and the provisions of this Act or other applicable law.

Condi-
tions of
licence

30. A licensee issued with a licence under section 29 shall-

- (a) construct and maintain water supply mains and where necessary

according to its licence, sewerage systems to the boundary of a consumer's property;

- (b) operate in accordance with the business plans submitted under section 29 (2) (b);
- (c) comply with directives or orders issued by EWURA in the exercise of its functions under section 27;
- (d) keep a record of its water supply and sanitation services in a form specified by EWURA and submit the record to EWURA every year from the commencement of the licence; and
- (e) comply with any other condition issued by EWURA for the proper delivery of its water supply and sanitation services.

PART VII

COMMUNITY OWNED WATER SUPPLY ORGANISATIONS

31.-(1) A community owned water supply organisation may be established by the agreement of the majority of the members of a community.

Establishment of community owned water supply organisations

(2) A community organisation established pursuant to subsection (1) shall be a corporate body for the purposes of this Act as may be prescribed in any law including-

- (a) a Water Consumer Association;
- (b) a Water Trust;
- (c) a Cooperative Society;
- (d) a Non-government Organisation;
- (e) a Company; or
- (f) any other body as may be approved by the Minister.

(3) The community organisation shall in that capacity have perpetual succession and common seal and shall have power, in and by its corporate name, sue and be sued and, in the exercise and performance of its powers and functions, to do and permit all such things as may lawfully be done or

permitted by a body corporate in furtherance of its objectives under this Act.

(4) Notwithstanding the provisions of subsection (2), a community owned water supply organizations established, shall form its association in accordance with its constitution or Memorandum of Agreement.

Powers and functions of community owned water supply organisations

32. A community organisation established under section 31 shall, subject to the terms of this Act, have the powers and functions in its area of jurisdiction to-

- (a) own movable and immovable properties including public taps and waterworks;
- (b) manage, operate and maintain public taps and or waterworks and provide an adequate and safe supply of water to its consumers;
- (c) make rules for the use of public taps and or waterworks by consumers;
- (d) install water meters for the purpose of measuring the amount of water supplied to a public tap or a consumer;
- (e) charge consumers for the water supplied from public taps and or waterworks;
- (f) limit the access of any persons from the water source, public taps or from supplies from the waterworks who are not complying with the rules, regulations or the constitution of the community organisation;
- (g) consult and cooperate with the village council or any other institution responsible for land to plan and control the use of land in the immediate vicinity of the water points and or waterworks; and
- (h) do such other thing or enter into any transaction which, in the opinion of the Board or Committee is necessary and proper in carrying out its obligations under this Act.

Constitution of community organisations

33.-(1) The proposed members of a community organisation shall prepare a Constitution or Memorandum of Agreement substantively in the form set out in the Second Schedule and submit such Constitution or

Memorandum of Agreement to the local government authority for approval.

(2) Upon request of a community or group of water consumers intending to establish an association, the local government authority shall provide assistance in formulating the Constitution or Memorandum of Agreement.

(3) A Board or Committee as appropriate shall be the executive organ of the community organisation and shall be elected and have the powers as set out in the Constitution or Memorandum of Agreement prepared under subsection (1).

34.-(1) Upon approval of the Constitution or Memorandum of Agreement prepared under section 33, and the community organisation's establishment under the provisions of any other law, the community organisation shall be registered in accordance with the procedure as shall be prescribed by the Minister and published in the *Gazette* in accordance with section 33(1).

Registration of community organisations

(2) With effect from the date of registration the community organisation shall be responsible for the water supply system or systems for which it was established.

(3) With effect from the date of registration all water consumers within the area of a community organisation shall be required to pay such charges as may be levied for the provision of water supply.

35.-(1) For the purposes of section 32, a community organisation may, arrange for the exercise of powers and performance of its functions by one or more agents, to be known as service providers.

Appointment of service providers

(2) Such arrangement shall be reduced to a written agreement between the community organisation and the service provider the terms of which, and any amendment of which, shall be approved by the local government authority.

PART VIII

FINANCIAL PROVISIONS FOR COMMUNITY OWNED WATER SUPPLY ORGANISATIONS

Sources
of funds

36. The sources of funds for community owned water supply organisations shall be-

- (a) the water levies or water charges payable to it by each consumer using the water scheme;
- (b) any contributions by its members and financial support from the communities;
- (c) any moneys that may be payable by members under its constitution;
- (d) any moneys that the community organisation may obtain with the approval of the Minister responsible for local government from donations, loans or other financial assistance;
- (e) any such sums as may be set aside by local government authority as a percentage of their revenue for community organizations on projects; and
- (f) any moneys that may be contributed by the respective local government authority to finance construction of new schemes, rehabilitation and expansion of existing schemes.

Financial
support
to commu-
nity
owned
water
supply
organisa-
tions

37.- (1) Subject to subsection (3), local government authorities may give assistance to community organisations to enable them to discharge their functions under this Act;

(2) The assistance may be in the form of grants, loans or subsidies necessary subject to such conditions as the Minister responsible for local government determines.

(3) Prior to giving any financial assistance, the local government authorities must take into account all relevant considerations including-

- (a) the need for equity;
- (b) the need for transparency;

- (c) the purpose of the financial assistance; and
- (d) the financial position of the recipient.

(4) Any community organisation shall be required to meet the costs of operation and maintenance of its water supply system or systems from its own resources and make a contribution, in cash or kind, to its capital costs.

(5) The community organisations requesting financial support shall be required to demonstrate-

- (a) ability to sustain water schemes; and
- (b) willingness to pay a portion of the capital costs of the water schemes both in cash and in kind.

37A.-(1) The Community organisations for which the financial support has been granted by the Local Government Authority under section 37 shall be obliged to submit to the Local Authority -

Accounts and audit of funds of organisations

- (a) the performance report or progress report indicating the income and expenditure in respect of the water supply activities;
- (b) the audited report regarding all financial assistance granted by the Local government authority.

(2) The Local Government Authority shall in respect of the community organizations, have the duty to inquire into any matter regarding the performance of activities and management of the funds of such organizations in relation to water supply and services.

PART IX

MONITORING AND REGULATION OF COMMUNITY OWNED WATER SUPPLY ORGANISATIONS

38.-(1) In carrying out monitoring and regulation of community owned water supply organisations, the Minister shall-

Guidelines for community owned water supply organisations

- (a) provide guidelines for the establishment of the community organisations and for the conduct of their affairs including the arrangements for entering into agreements with the private sector as service providers;
- (b) exercise regulatory functions in respect of community owned water supply services including the establishment of standards relating to equipment attached to the water supply and sanitation systems;
- (c) establish or approve standards and codes of conduct in respect of the community organisation and its consumers;
- (d) monitor water quality and standards of performance of the community organisations in the provision of water supply services;
- (e) provide guidelines and approve tariffs chargeable for the provisions of water supply services;
- (f) conduct studies required for administrative or management purposes;
- (g) promote the development of water supply services in communities, including linkages with sanitation measures;
- (h) perform other functions which are incidental or ancillary to the functions stipulated under this subsection.

(2) Notwithstanding the provisions of subsection (1), the carrying out of the responsibilities of the Minister in respect of community organisations, the Minister may delegate such powers to local government authorities in their respective jurisdiction.

(3) The local government authorities shall submit reports to the Minister in such form and at such times as the Minister may prescribe in the regulations.

(4) Notwithstanding the general responsibilities stipulated in subsection (1), a local government authority may take such measures as it deems necessary in respect of any community organisation in its area of jurisdiction in respect of-

- (a) settlement of disputes between a community organisation and its consumers;
- (b) settlement of disputes between a community organisation and its service providers;

- (c) failure of a community organisation to provide services; or
- (d) any other matter which, in the opinion of the local government authority, is contrary to the interest of its consumers.

PART X

DUTIES OF LOCAL GOVERNMENT AUTHORITIES IN RESPECT OF COMMUNITY ORGANISATIONS

39. The district councils in the designated areas of their jurisdiction shall, in relation to water works executed by community organisations, make payment for purposes of-

Payments by local government authorities

- (a) compensating all parties claiming interest in the land for all damage sustained by them as a consequences of execution, expansion or rehabilitation of waterworks carried out by or on behalf of the community organisation through or on their land; and
- (b) meeting part of the costs incurred by community owned water supply organisations in the major rehabilitation and expansions of water schemes and payment for costs of service rendered .

40. The district councils shall cooperate with other local government authorities in exercising any of the following duties-

Cooperation of local government authorities

- (a) facilitating the acquisition by all water organisations developing water schemes of certificates of title prior to the commencement of the schemes;
- (b) mobilising rural communities and provide technical and financial support in the implementation of water development programmes;
- (c) implementing defined regulatory roles and approve by-laws to protect water sources, community organisations and service providers;
- (d) mobilising revenue for the purpose of supporting the development, operation and maintenance of water schemes in the district;
- (e) facilitating and encouraging the communities to construct, maintain and control of water points, and sanitation facilities in any household or within the community organisation's area;

- (f) promoting efficient water use, pollution control and taking measures for the conservation and the protection of water sources, waterworks, streams, rivers, springs and other water sources within its area; and
- (g) promoting registration of community organisations in order to facilitate ownership of water schemes to them.

PART XI

RESPONSIBILITY FOR NATIONAL WATER SUPPLY AND SANITATION SCHEMES

Residual powers of the Minister for national schemes

41.-(1) The Minister shall retain a residual power to provide water supply and sanitation services to consumers through national schemes and in so exercising this power shall perform the functions, and exercise powers of a water authority as provided for under sections 20 and 21 of this Act.

(2) Notwithstanding the generality of subsection (1), the Minister may conclude agreements with community organisations served by a national scheme whereby the Minister directs or causes the provision of a bulk water supply to one or more community organisations established under this Act.

(3) Where the Minister concludes agreements with consumer organisations under subsection (2) for the bulk of water supply or where the Minister directs or cause the supply of water direct to consumers, the charge for the water supply shall be based on the considerations for financial support stipulated under section 37.

PART XII

CODES OF WORKMANSHIP

Codes of workmanship

42. (1) The Minister shall prescribe codes of workmanship in respect of the construction, operation and maintenance of any-

- (a) works for the provision of water supply and sanitation services

by water supply and sanitation authorities or community owned water supply organisations under this Act; and

- (b) private water supply or sanitation systems.
- (2) A code of workmanship may without limitation include-
 - (a) design, construction, alteration, operational and maintenance;
 - (b) types of machinery, materials, fittings or appliances which may be used in;
 - (c) the requirement for waterworks and sanitation works to only be executed by or under the direct supervision of a person holding prescribed qualifications;
 - (d) the procedures for obtaining approval for the works where necessary; and
 - (e) any other thing connected with it.

43.-(1) The Minister may, by regulations published in the *Gazette*, establish licensing board or boards for the purposes of licensing engineers, technicians or craftsmen to execute water supply sanitation operation, construction and maintenance as prescribed qualifications consequent to section 42 (2) (c).

Licensing
Boards

(2) The regulations published under subsection (1) may prescribe the -

- (a) composition of members of the Board and procedure of the deliberations of the Board;
- (b) procedures for examining a person in order to assess competence;
- (c) skills for which a certificate of competence is required;
- (d) procedures for applying for a certificate of competence;
- (e) conditions for granting a certificate of competence; and
- (f) disciplinary powers in relation to withdrawal of certificates.

(3) Any Board established under subsection (1) may in respect of certificates of competence-

- (a) organise training courses;

- (b) conduct examinations;
- (c) award certificates to persons who have passed examinations held under this subsection;
- (d) award certificates of competence to other persons who can demonstrate that they have the prescribed practical experience and qualifications; and
- (e) award an interim certificate of competence to persons pending such persons satisfying the Board that they are entitled to the granting of a licence.

PART XIII

NATIONAL WATER INVESTMENT FUND

Establishment of National Water Investment Fund

44.-(1) There is established a Fund which shall be known as the National Water Investment Fund.

(2) The objectives of the National Water Investment Fund shall be to provide investment support for water service provision, and the management of catchments areas serving water supply abstractions, in areas of Mainland Tanzania which are without adequate water services.

(3) The sources of funding for the National Water Investment Fund shall consist of-

- (a) such moneys as may be appropriated by Parliament for the purposes of the Fund;
- (b) such moneys as may be received by the Fund from donations, grants and bequests from whatever source; and
- (c) such other moneys as may, by or under any Act, be payable to the Fund.

(4) The Fund shall allocate loans on favourable terms to water authorities and community organisations.

(5) The Minister shall make regulations prescribing procedures for

the performance of the functions and the use of the funds for the operations of the Fund.

45.-(1) The funds of the Fund shall vest in the Board of Trustees and be administered as such.

Composition and administration of the Fund

(2) The Board of Trustees shall be appointed by the Minister and shall consist of persons who possess the qualities prescribed in the Third Schedule to this Act.

(3) The Third Schedule shall have the effect with regards to the membership and procedure of the Board of Trustees.

46.-(1) The Board of Trustees shall cause to be provided and kept, proper books of accounts in accordance with the Public Audit Act.

Annual accounts and audit of the Fund Act No 7 of 2007

(2) Within six months of the close of every financial year the accounts including the balance sheet of the National Water Investment Fund shall be audited by the Controller and Auditor General in accordance with the provisions of the Public Audit Act.

(3) Every audited balance sheet shall be placed before a meeting of the Board of Trustees and, where adopted by the Board, be endorsed with a certificate that it has been so adopted.

(4) As soon as the accounts of the National Water Investment Fund have been audited, and in any case not later than six months after the close of the financial year, the Board shall submit to the Minister a copy of the audited statement of accounts together with a copy of the report on that statement made by the auditors.

(5) The Minister shall, as soon as practicable after receiving the report, lay before the National Assembly the audited accounts of the National Water Investment Fund together with the auditor's report, where any, on the accounts.

PART XIV
OFFENCES AND PENALTIES

47.-(1) Any person who wilfully or negligently damages the waterworks, any sewer, sewerage treatment plant, or other asset owned or vested in a water authority or community organisation, or unlawfully draws off, diverts or takes water from the waterworks commits an offence.

Damage to or interference with water-works

(2) Any person who is convicted for an offence under subsection (1) shall be liable to a fine not less than fifty thousand shillings and not more than five million shillings or to imprisonment for a term not less than one month and not more than five years or to both, and the court may, in addition issue an order for payment of costs of remedying such damage or loss.

Misuse
of water

48. Any person who wilfully or negligently misuses or wastes, or causes or allows to be misused or wasted any water passing into, through or upon or near any premises from the waterworks, commits an offence and shall on conviction be liable to a fine of not less than fifty thousand shillings and not more than one million shillings or to imprisonment for a term of not less than one month and not more than six months or to both.

Fraudulent
measure-
ment

49.-(1) Any person who alters or causes or permits to be altered any appurtenances with intent to avoid the accurate measurement or register of water by means of any meter or to obtain a greater supply of water than he is entitled to or to avoid payment for the supply of water or who wilfully or negligently interferes with or damages any meter, commits an offence.

(2) A person who is convicted pursuant to subsection (1) shall be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding six months or to both and in the case of subsequently conviction, to a fine of not less than five hundred thousand shillings and not more than one million shillings or to imprisonment for a term of not less than six months and not more than one year and, in the case of continuation of the offence to a fine of fifty thousand shillings for every day during which the offence continues and other administrative measures which may be appropriate about the premises of the offence

(3) Any appurtenances so altered or meter damaged or interfered with and in relation to such alteration, damage, loss of water or interference a conviction has been procured shall be replaced or repaired by a water authority or community organisation at the expense of any person convicted and the cost incurred may be recovered from that person as a civil debt by way of summary suit.

50.-(1) Any person who uses any water supplied to him by a water authority or community organisation for purposes other than those for which water is supplied commits an offence.

Using water other than for purposes supplied

(2) A person who is convicted under subsection (1) shall be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one month.

(3) A penalty imposed under this section shall be procured without prejudice to the right of a water authority or community organisation to recover the value of water improperly used.

51. Any person who-

(a) washes his person or bathes in any part of the waterworks or waterworks area or in any vessel used by a water authority or community organisation for supplying water from any public tap;

Bathing, washing, etc. in water-works

(b) washes, throws or causes or permits to enter into water-works any part of the waterworks or waterworks area or into any vessel used by a water authority or community organisation for supplying water from any public tap, any animal, clothing, material or thing; or

(c) wrongfully opens or closes any lock, cock, valve, sluice or manhole belonging to the waterworks, commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding three months.

52.-(1) Any person who deposits or allows or causes to be deposited any earth, material or liquid in such manner or place that it may be washed, fall or be carried into the waterworks commits an offence and shall be liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding twelve months or to both.

Water Pollution

(2) Except for part of land which has been allocated under a right of occupancy, any person who on any part of the waterworks erects or inhabits or allows or causes to be erected or inhabited any structure, whether of permanent or temporary nature or who inhabits any cave, cavity, depression or hole in any part of the waterworks, commits an offence and shall be liable on conviction to a fine not exceeding two million shillings or to imprisonment for a term not exceeding twelve months or to both.

(3) Where a court convicts a person in pursuance of subsection (1) or (2), it may issue an order requiring-

- (a) that person to remove any object or stop from doing any act or omission with respect to which an offence has been committed and such person shall comply forthwith with this order; and
- (b) the costs of remedying any damage or loss arising.

Offences
to assault
an official

53.-(1) Any person who assaults, threatens, resist, obstruct, hinder, or delay in any manner an official or worker of a water authority in performing his functions or discharge of functions or discharge of duties under this Act commits an offence, and on conviction shall be liable to a fine not less than two million shillings and not more than five million shillings or to imprisonment for a term not exceeding three years or to both and shall be liable to pay compensation sufficient to cover any damage which the official or worker suffered as a result of or during the commission the offence.

(2) Where an act or omission punishable under this Act can equally be punishable under other written law for the time being in force, the offender shall be proceeded against and punished either under this Act or under such other law but shall not be liable to be punished twice for the same offence.

General
Penalty

54. Any offence committed against this Act for which no penalty is expressly provided shall be punishable by a fine not less than fifty thousand shillings or to imprisonment for a term of not more than one months

Compo-
unding of
offences

55.-(1) Where evidence is available that would reasonably support the bringing of charges against a person for an offence the fine of which does not exceed thirty thousand shillings under this Act, and where that person admits in writing to the offence, the offence may be compounded by the Managing Director and Manager as the case may be, by accepting from that person-

- (a) the sum of money together with all reasonable expenses the water authority or community organisation may have incurred in the inspection, taking of measurements in connection with the offence; and
- (b) the payment of all fees and charges which would have been due where the action had been authorised under this Act.

(2) The compounding of an offence under this section shall be a bar to any further criminal proceedings in respect of that offence.

PART XV

TRANSITIONAL PROVISIONS

56.-(1) As soon as reasonably practicable after the commencement of this Act, the Minister shall, in consultation with the Minister responsible for local government and by Notice in the *Gazette*, publish a plan for the transfer of the management of water supply and sanitation services to community organisations established under this Act.

Transfer of responsibilities to water authorities and community organisations

(2) The plan shall-

- (a) provide details of the institutional, organisational and financial arrangements, and capacity building and other measures to ensure an orderly transfer of water supply and sanitation service responsibilities;
- (b) prescribe appropriate arrangements for the transfer of the ownership of plant, equipment or other assets used by the government in connection with water supply and sanitation services to the water authorities and community organisations;
- (c) provide for the integration of community organisations within the areas of responsibility of water authorities where cost effective to do so and provide for the transfer of assets; and
- (d) specify measures to give effect to the plan within a specified time.

57.-(1) The Minister may, by notice in *Gazette*, make regulations prescribing any thing which may be prescribed under this Act.

Power of the Minister to make Regulations

(2) Without prejudice to the generality of subsection (1), the regulations may prescribe the procedure for approval of project and implementation of the project cycle.

58. The Minister shall, in consultation with the Minister responsible for local government authorities, have powers to dissolve water authorities.

Powers of the Minister to dissolve water authorities

Disapp-
lication
of this
Act
Cap.273

59. This Act shall not apply in the area of which the Dare s Salaam Water Supply Act applies.

Repeal
and
Savings

60.- (1) The Waterworks Act is hereby repealed.

Caps. 272,
287 and
288

(2) Notwithstanding the repeal of the Waterworks Act -

- (a) an authority or entity established under the Waterworks Act, or a local government authority under the provision of the Local Government (District Authorities) Act, or the Local Government (Urban Authorities) Act, which, immediately before the date of commencement of this Act was providing water supply and sanitation services within the meaning of this Act shall continue to exercise the same powers and functions in respect of the provision of water supply and sanitation services as it was exercising immediately before that date, until the establishment of water authorities under Sections 8 or community organisations under Section 36 in the respective areas; and
- (b) for the purposes of the exercise of powers and performance of functions in accordance with paragraph (a), the repealed provisions of the Waterworks Act and the provisions of the Local Government Acts and any rules, regulations and by-laws made for the purposes of any such provisions, shall be deemed to continue in force.

Transiti-
onal provisi-
ons

Cap. 414

61.-(1) Existing water authorities which have not fully complied with the conditions for licensing under the Energy and Water Utilities Regulatory Authority Act shall be issued with a provisional licence by EWURA and within twenty four months from the date of coming into force of this Act take measures to comply with the required conditions for a licence.

(2) Notwithstanding subsection (1), where there is a water authority and community owned water supply organisation, the water authority shall cease to operate, provided that the latter shall fully conform with the provisions of this Act.

Water
Service
providers
under other
laws

62.-(1) Each existing water service provider established under any other written law shall, with effect from the commencement of this Act, be required to -

- (a) submit to the local government authority its constitution and memorandum of Agreement if any for the purpose of registration in terms of this Act; and
- (b) comply with all the provisions of this Act regarding the provisions of water services.

(2) For the purpose of this section “existing water service provider” includes -

- (a) a Water Consumer Association;
- (b) a Water trust;
- (c) a cooperative society;
- (d) a non-government organization;
- (e) a company; and
- (f) any other body or organization established under any other written law.

FIRST SCHEDULE

(Made under section 10(2))

MEMBERS AND PROCEDURE OF THE BOARD OF THE AUTHORITY

1.-(1) Members of the Board of Directors of the water authority operating at the regional headquarter shall not be more than ten persons consisting of-

- (a) a Chairman who shall be a resident of the municipality, township or locality in question appointed by the Minister;
- (b) the Managing Director of the Water Supply and Sanitation Authority who shall be the Secretary of the Board;
- (c) one member appointed by the Minister to represent the Ministry responsible for water;
- (d) a representative of the regional administration;
- (e) the Director of each district council in the area of jurisdiction of the authority;
- (f) at least five members appointed by the Minister upon consultation with the regional administration being-
 - (i) Councillors;
 - (ii) a representative of the local commercial sector or larger scale water consumer;
 - (iii) a representative of the locally based large scale consumers of water;

Composition
of the
Board of
Directors

- (iv) a representative of the domestic consumers of water; and
- (v) the representative of women groups.

(2) The Board of Directors in the District and township level shall not be more than seven persons who shall consist of-

- (a) a Chairman who shall be a resident of the area of the operation of the water authority appointed by the Minister responsible for local government;
- (b) the Managing Director of the Water Supply and Sanitation Authority who shall be the Secretary of the Board;
- (c) the Director of each district council in the area of jurisdiction of the authority; and
- (d) at least four members appointed by the Minister responsible for local government being-
 - (i) a Councillor; and
 - (ii) one representative of the local commercial sector;
 - (iii) one representative of the large scale water consumers;
 - (iv) one representative of the domestic water consumers

(3) At least one third of members of the Board of Directors shall be women.

(4) The Minister or the Minister responsible for local government in making appointments of members shall have regard to desirability that every person appointed possess such technical qualifications or experience by virtue of his involvement in commerce, industry, agriculture, finance, public services or administration, as would enable that person to make a useful contribution to the deliberations of the Board and to assist it in the furtherance of the functions of the Authority.

(5) Members of the Board of Directors appointed in accordance with subsection (1) shall hold office for a period of three years but shall be eligible for re-appointment at the end of that period.

(6) Members not appointed by virtue of their office shall be eligible for re-appointment for one further term only.

(7) Notwithstanding the eligibility of members for re-appointment to the Board of Directors under subsection (5), at each re-appointment of members, there shall be at least two members shall be new members who shall not have served previously as a member.

Vice-
Chair-
man

2. The members shall elect one of their number to be the Vice-Chairman of the Board and any member so elected shall, subject to his continuing to be a Member, hold office for a term of one year from the date of his election and shall be eligible for re-election.

Meetings
of Board

3.- (1) The Board shall ordinarily meet for the transaction of its business at the times and at the places determined by it, but shall meet at least once in every three months.

(2) The Chairman, or in his absence, the Vice-Chairman, may at any time call a

special meeting of the Board upon a written request by a majority of the Members in office,

(3) The Chairman, or in his absence, the Vice-Chairman, shall preside at every meeting of the Board and in the absence or both the Chairman and the Vice-Chairman the Members present at a meeting shall appoint one of their number to preside at the meeting.

(4) The Chairman or, in his absence, the Vice-Chairman, may invite any person who is not a Member to participate in the deliberations at any meeting of the Board but a person so invited shall not be entitled to vote.

4. The quorum at any meeting of the Board shall be half of the Members in office. Quorum

5.- (1) Questions proposed at a meeting of the Board shall be decided by a majority of the votes of the Members present and voting and in the event of equality of votes, the person presiding shall have a second or casting vote in addition to his deliberative vote. Decision

(2) Notwithstanding sub-paragraph (1) a decision may be made by the Board without a meeting by circulation of relevant papers among the Members, and the expression in writing of similar views by the majority of the Members shall constitute the decision of the Board.

6.- (1) The Board shall record and keep minutes of all business conducted or transacted at its meetings and the minutes of each meeting of the Board shall be read and confirmed, or amended and confirmed, at the next meeting of the Board and signed by the person presiding at the meeting. Minutes of meetings

(2) Any minutes purporting to be signed by the person presiding at a meeting of the Board shall, in the absence of proof of error, be deemed to be a correct record of the meeting whose minutes they purport to be.

7. The validity of any act of proceedings of the Board shall not be affected by any vacancy among its members or by any defect in the appointment of any of them. Meetings of Board

8. All orders, directions, notices or other documents made or issued by or on behalf of the Board shall be signed by- Orders, directions, etc

(a) the Chairman or the Vice Chairman: or

(b) the Managing Director or any other officer or officers of the Authority authorised in writing to do so by the Managing Director.

9. The seal of a Water Supply and Sanitation Authority shall not be affixed to any instrument except in the presence of the Chairman or the Vice-Chairman or the Managing Director or some other officer of a Water Supply and Sanitation Authority and at least one other Member of the Board. Affixing seal of the Authority

Board may regulate its own proceedings

10. The Board may regulate its own proceedings.

Power to dissolve the Board of Water Authority

11. The Minister may, after consultation with the Minister responsible for local Government dissolve the Board of Water Authority.

SECOND SCHEDULE

(Made under section 33)

CONSTITUTION OF A COMMUNITY OWNED WATER SUPPLY ORGANISATION

THE CONSTITUTION OF THE WATER CONSUMERS' ASSOCIATION.

1.- (1) There is hereby formed the Water Consumers Association (hereinafter referred to as the "Association".)

(2) The Association, including its Management Committee, shall have the status of a legal person and in that capacity it shall be capable of suing and being sued.

(3) The liability of any venture of the Association shall be limited.

(4) The members of the Association shall be any and all persons natural or legal as may be consumers of water from water points or direct connections located within the area of responsibility of the Association.

2. The objects of the Association shall be to-

- (a) own movable and immovable properties including public taps and waterworks;
- (b) manage, operate and maintain public taps and or waterworks and provide an adequate and safe supply of water to its consumers;
- (c) determine rules for the use of public taps and or waterworks by consumers;
- (d) install water meters for the purpose of measuring the amount of water supplied to a water point or a consumer;
- (e) charge consumers for the water supplied from public taps and or waterworks;
- (f) exclude any person from public taps or from supplies from the waterworks who is not complying with the rules, regulations or this constitution;
- (g) consult and cooperate with the village council or any other institution responsible for land to plan and control the use of land in the immediate vicinity of public taps and or waterworks;

- (h) do such other thing or enter into any transaction which, in the opinion of the Management Board or Committee, is calculated to facilitate the proper exercise of the functions of the community organisation under the Water Supply and Sanitation Act, 2009.

3. The area of responsibility of the Association shall be as shown on the attached map.

4.- (1) An Annual General Meeting shall be held once each year, not more than fifteen months following the previous Annual General Meeting. An Extra-ordinary General Meeting of the Association may be called by five per centum of members giving two weeks notice to the Secretary in writing.

(2) One third of the full number of members shall constitute a quorum.

(3) Voting can be exercised by a member or proxy in favour of another member provided the proxy form is in the hands of the Secretary prior to the meeting.

(4) A majority of votes at the Annual General Meeting shall decide the principles governing the provision of water supplies, maintenance of the water points and water works, and shall decide the charges to be levied thereof and for expenses of the Association.

THIRD SCHEDULE

[Made under Section 45]

MEMBERSHIP AND PRODEDURE OF THE BOARD OF TRUSTEES

1.- (1) The Board of Trustees shall consist of-

- (a) a Chairman who shall be a person of proven quality and integrity who has achieved high officer distinction in Mainland Tanzania on public administration who shall be appointed by the Minister;
- (b) a senior representative of the Ministry responsible for finance;
- (c) a senior representative of the Ministry responsible for water;
- (d) a senior representative of the Ministry responsible for local government;

Compo-
sition of
the Board
of Trustees

2. The Members shall elect one of their number to be the Vice-Chairman of the Board and any Member so elected shall, subject to his continuing to be a Member, hold office for a term of one year from the date of his election and shall be eligible for re-election.

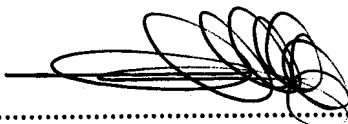
Vice-
Chairman

3. Members of the Board of Trustees appointed in accordance with subsection (1) shall hold office for a period of three years except where their membership is terminated for misconduct or other sufficient reason but shall be eligible for re-appointment at the end of that period.

Tenure of
office

4. An officer responsible for financial matters of the Fund shall attend meetings of the Trustees an *ex-officio* member when matters connected with the management of the fund are discussed. Attendance by *ex-officio*
5. Subject to subparagraph (2), an ordinary meeting of the Trustees shall be convened by the Chairman and the notice specifying the date, time, agenda and place for the meeting together with the necessary papers for the meeting shall be sent to each Trustee at his usual place of business or residence not less than fourteen days before the date of the meeting. Meetings of Board
- (2) The Chairman, or in his absence, the acting Chairman, shall be bound to convene a special meeting of the Trustees upon receipt of a request in writing signed by not less than three Trustees.
6. The quorum at any meeting of the Trustees shall be half of members in office. Quorum
7. A Trustee who has any interest, direct or indirect in any matter coming before the Trustees shall, as soon as is reasonably practicable, disclose the nature of that interest to the Chairman or acting Chairman and shall not, thereafter, take part in any deliberations or decision on that matter. Disclosure of interest
8. Subject to the provisions of this Schedule, the Trustees may regulate their own proceedings. Board to regulate its proceedings

Passed in the National Assembly on the 28th April, 2009.



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Clerk of the National Assembly