

## CHAPTER 152

### THE WATER ACT.

#### Arrangement of Sections.

#### Section

##### PART I—PRELIMINARY.

1. Commencement.
2. Interpretation.
3. Application of the Act.
4. Objectives.

##### PART II—WATER RESOURCES.

##### DIVISION 1—RIGHTS IN WATER AND WATER ADMINISTRATION.

##### *Rights in water.*

5. Rights in water vested in the Government.
6. Interests to be in accordance with the Act.
7. General rights to use water.
8. Limitation on use of water.

##### *Water Policy Committee.*

9. Water Policy Committee.
10. Functions of the Water Policy Committee.
11. Delegation of powers and functions.

##### DIVISION 2—WATER RESOURCE PLANNING.

##### *Inventory of water resources.*

12. Water resources investigation.
13. Minister's power to require records, etc.
14. Power to enter land and investigate water resources.
15. Obligations on entry on land.

*National water action plan.*

16. National water action plan.
17. Action plan to be adhered to.

DIVISION 3—HYDRAULIC WORKS AND USES OF WATER.

18. Construction of works.
19. Exemption of works.
20. Standard conditions.
21. Inspection of works.

DIVISION 4—REVISION, VARIATION AND CANCELLATION OF WATER PERMITS.

22. Suspension or variation of a water permit.
23. Quantification for a water permit.
24. Duration of a water permit.
25. Cancellation of a permit.
26. Cancellation or variation of a permit for a public purpose.
27. Variation of a water permit upon application of the holder.

DIVISION 5—WASTE DISCHARGE PERMITS.

28. Declaration of prohibited waste by the Minister.
29. Application for a waste discharge permit.
30. Reference of permits to other authorities.
31. Prohibition of pollution.

DIVISION 6—MISCELLANEOUS PROVISIONS FOR PART II.

32. Charges and fees.
33. Damage caused by the Minister etc. to be compensated.
34. Register of permits.
35. Prescribed guidelines.
36. Easements.
37. Inspection of land in relation to water use.
38. General appeals.
39. Offences.
40. Penalties.

41. Protection from liabilities.
42. Transitional period and existing works and permits.
43. Decision to be in regard to objectives.
44. Director's power to give direction.

PART III—WATER SUPPLY AND SEWERAGE.

DIVISION 7—WATER AND SEWERAGE AREAS AND AUTHORITIES, AND USER GROUPS AND ASSOCIATIONS.

45. Declaration of water and sewerage areas.
46. Appointment of water or sewerage authorities.
47. Functions of water and sewerage authorities.
48. Performance contracts.
49. Service discretionary.

*Water user groups and associations.*

50. Water user groups and water and sanitation committee.
51. Water user association.
52. Associations and committees to work under director.

DIVISION 8—WATER SUPPLY.

*Supply for private and public purposes.*

53. Construction of water works.
54. Recovery of capital costs.
55. Declaration of completed water supplies.
56. Requiring owner to connect to works.
57. Authority to supply water by measure or otherwise.
58. Metering.
59. Testing meters.
60. Authority to erect hydrants and standpipes.

*Water restrictions.*

61. Water restrictions.

DIVISION 9—PUBLIC AND PRIVATE SEWERAGE WORKS.

62. Construction of sewerage works.
63. Declaration of completed sewerage works.
64. Connections and work requirements within a sewerage area.
65. Application for the construction of a private sewer.
66. Incorporation with public sewerage system.
67. Proper construction and operation.

DIVISION 10—TRADE WASTE AGREEMENTS.

68. Declaration of prohibited waste by an authority.
69. Trade waste agreements.

DIVISION 11—STANDARDS OF WORKMANSHIP.

70. Codes of workmanship.
71. Power to conduct training courses for plumbers and drainers.

DIVISION 12—GENERAL POWERS OF AUTHORITIES.

72. Execution of works on request.
73. Notice to repair.
74. Notice of contravention.
75. Power to enter land for reading meter, etc.
76. Powers to undertake works.
77. Land and works to vest in authority.
78. Abandonment of works.
79. Power to stop traffic.
80. Works on roads.
81. Protected zones.
82. Restriction or discontinuation of water supply.
83. Power to enter land and take action.
84. Power to acquire land.
85. Power to deal with land.
86. Notice of intention to affect works.

DIVISION 13—COMMERCIAL POWERS AND FINANCIAL PROVISIONS.

87. Application of sections 88, 89 and 90.
88. Authority's contracts.

89. Authority's commercial ventures.
90. Industrial property.
91. Compensation to be paid.
92. Cost of relocation or reconstruction.
93. Compensation to the authority.
94. Rates, charges and fees.
95. Recovery of outstanding rates, etc.

DIVISION 14—MISCELLANEOUS FOR PART III.

96. Supply outside water supply areas.
97. Supply by certain persons prohibited.
98. Unlawful taking of water.
99. Interference with works.
100. Tampering with works.
101. Structures not to be put on land, etc.
102. Trees, crops and shrubs.

PART IV—GENERAL AND MISCELLANEOUS.

103. Obstruction of an officer.
104. Offences and penalties.
105. Inspection of authorities.
106. Protection of authorities and officers.
107. Regulations.

## CHAPTER 152

### THE WATER ACT.

*Commencement:* 7 April, 1997  
(except for division 5  
of Part II).

**An Act to provide for the use, protection and management of water resources and supply; to provide for the constitution of water and sewerage authorities; and to facilitate the devolution of water supply and sewerage undertakings.**

#### PART I—INTERPRETATION.

##### 1. Commencement.

This Act shall come into force on a date that the Minister may, by statutory instrument, appoint; except that—

- (a) different sections may come into force at different times; and
- (b) no date shall be appointed to bring into force division 5 of Part II unless the delegation referred to under section 3(2) has been effected.

##### 2. Interpretation.

- (1) In this Act, unless the context otherwise requires—
  - (a) “action plan” means the national water action plan prepared under section 16;
  - (b) “aquifer” includes a geological structure or formation and an artificial landfill permeated or capable of being permeated permanently or intermittently with water;
  - (c) “area” includes a water supply area and sewerage area or either of them, as the case may be;
  - (d) “authorised person” means a person acting on behalf of the Minister or the director to whom powers have been delegated under section 11 and includes an officer, servant or agent of an authority or any person acting on behalf of the authority;
  - (e) “authority” includes a water authority or sewerage authority or either of them, as the case may be;
  - (f) “borehole” includes a borehole, well, excavation or other opening

in the ground or any natural or artificially constructed or improved underground cavity which is used or extends to an aquifer—

- (i) for intercepting, collecting, obtaining or using ground water; or
  - (ii) for disposing of any water or waste below the surface of the ground;
- (g) “building sewer” in relation to land means any pipe conduit, underground gutter or channel provided on that land to convey sewage or trade waste, but does not include a sewer connection;
- (h) “connected fittings” includes any water closet, urinal, sink, lavatory, bath cistern or other sanitary fittings;
- (i) “construct” includes alter, improve, maintain and repair;
- (j) “director” means the director of water development;
- (k) “domestic sewage” includes faecal matter, urine, household slops and other liquid house refuse;
- (l) “domestic use” includes use for the purpose of—
- (i) human consumption, washing and cooking by persons ordinarily resident on the land where the use occurs;
  - (ii) watering not more than thirty livestock units;
  - (iii) irrigating a subsistence garden; and
  - (iv) watering a subsistence fish pond;
- (m) “easement” means a right to enter on land owned or occupied by another person for all or any of the following purposes—
- (i) to construct works on or in that land;
  - (ii) to store water on or in that land; or
  - (iii) to carry water, drainage or waste under, through or over that land;
- (n) “environment” means all aspects of the surroundings of humans, including the physical, biological, economic, cultural and social aspects;
- (o) “ground water” means all water occurring or obtained from below the surface of the ground other than water contained in works, not being a borehole, for the distribution, reticulation, transportation, storage or treatment of water or waste and includes water occurring in or obtained from any borehole or aquifer;
- (p) “hydrological station” includes a gauging, recording or monitoring station or an investigation or monitoring borehole or ancillary works constructed or installed on land;
- (q) “land” includes premises;

- (r) “livestock unit” means a mature animal with a live weight of 500 kilograms and for the purposes of this definition—
  - (i) one head of cattle shall be deemed to be 0.7;
  - (ii) one horse shall be deemed to be 0.6;
  - (iii) one donkey shall be deemed to be 0.4;
  - (iv) one goat shall be deemed to be 0.15;
  - (v) one sheep shall be deemed to be 0.15, of a livestock unit;
- (s) “main” means a main pipe forming part of the water supply system owned, operated or constructed by a water authority and includes any valves, meters, hydrants, access shafts, chambers and other fittings as may be necessary for proper functioning of the main pipe;
- (t) “Minister” means the Minister responsible for water or natural resources;
- (u) “occupier” means any person in occupation of the land or any part of the land or premises;
- (v) “owner” includes—
  - (i) the person for the time being receiving the rent of the land in connection with which the word is used, whether on his or her own account or as agent or trustee for any other person; or
  - (ii) the person who would receive the rent if the land were let to a tenant;
- (w) “performance contract” means a contract made under section 48;
- (x) “person” includes any corporation, authorised officer, public authority, other legal entity or water users group constituted for the purpose of acting as an authority under this Act;
- (y) “pollute” means directly or indirectly to alter the physical, thermal, chemical, biological or radioactive properties of any water so as to render the water less fit for any beneficial purpose for which it is, or may reasonably be, used or to cause a condition which is hazardous or potentially hazardous to public health, safety or welfare, or to animals, birds, fish or aquatic life or other organisms or to plants; and “pollution” has a corresponding meaning;
- (z) “premises” includes any building or structure whether of a temporary or permanent nature and any vehicle or vessel;
- (aa) “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—



- (i) for the conveyance of sewage or trade waste; or
- (ii) for other private purposes and not being part of a public sewerage system vested in or constructed by a sewerage authority;
- (bb) “private sewerage installation” includes a privately constructed latrine, septic tank or other sewerage system and all fittings connected to any of them but does not include a building sewer;
- (cc) “private water pipe” means any pipe provided by the owner or occupier of land for the receipt of a water supply but does not include a water connection or main;
- (dd) “public authority” includes Government Minister, government department, statutory authority or any local government body, including any body provided for in the Local Governments Act;
- (ee) “sewer connection” means a connection provided by the sewerage authority or at the authority’s directions for the conveyance of sewage or trade waste between a building sewer and a sewer at or near the boundary of that land;
- (ff) “sewerage area” means an area declared as such under section 45;
- (gg) “sewerage authority” means a sewerage authority appointed under section 46;
- (hh) “subsistence fish pond” means a fish pond appurtenant to, or used in connection with, a dwelling or group of dwellings for subsistence of its residents, the produce of which is predominantly consumed by the residents and is not sold or bartered;
- (ii) “subsistence garden” means a garden, not exceeding 0.5 hectare in area, appurtenant to, or used in connection with, a dwelling or group of dwellings for the subsistence of its residents, the produce of which is predominantly consumed by the residents and is not sold or bartered;
- (jj) “trade waste” means waste declared to be waste under section 68;
- (kk) “trade waste agreement” means an agreement made under section 69 and includes a trade waste consent;
- (ll) “use”, in relation to water, includes to withdraw, pump, extract, take, use or reuse or to divert for the purpose of using or reusing, that water;
- (mm) “waste” includes sewage and any other matter or thing, whether wholly or partly in solid, liquid or gaseous state, which if added to any water may cause pollution;
- (nn) “waste discharge permit” means a permit granted under section 29;

- (oo) “water” includes—
  - (i) water flowing or situated upon the surface of any land;
  - (ii) water flowing or contained in—
    - (A) any river, stream, watercourse or other natural course for water;
    - (B) any lake, pan, swamp, marsh or spring, whether or not it has been altered or artificially improved;
  - (iii) ground water;
  - (iv) such other water as the Minister may from time to time declare to be water;
- (pp) “water authority” means a water authority appointed under section 46;
- (qq) “water connection” means a connection provided by a water authority, or at its direction, for the conveyance of a water supply between a main and any private water pipe constructed on land, at or near the boundary of that land;
- (rr) “water permit” means a permit issued under division 3;
- (ss) “Water Policy Committee” means the committee established under section 9;
- (tt) “water supply area” means an area declared as such under section 45;
- (uu) “works” includes any works whatever which are related to or may affect the investigation, use, control, management or administration of any water or waste and any works, excavations or boreholes—
  - (i) where water or waste may be used, extracted, collected, diverted, stored, conducted, regulated, controlled, supplied, discharged, treated or measured;
  - (ii) where land may be drained;
  - (iii) where flooding or erosion of land or siltation of water may be mitigated or prevented;
  - (iv) partly or wholly situated within or on—
    - (A) the bed or banks of any watercourse; or
    - (B) any other source of water, by which any structure may be constructed or protected.

(2) In this Act, unless the contrary intention appears, a reference to the Act includes regulations made under the Act.

(3) In interpreting this Act, an interpretation which promotes the purposes of the Act must be preferred to one which does not.

### **3. Application of the Act.**

(1) The Minister may, from time to time, by notice in the Gazette declare part of this Act not to apply to an area defined in the notice for a purpose defined in the water action plan.

(2) Division 5 of Part II of this Act shall not be applied until the National Environment Management Authority, acting under section 6(2) of the National Environment Act, has delegated to the relevant authorities referred to in that division and on terms acceptable by the Minister, its functions—

- (a) under sections 26 and 34(2) of that Act; and
- (b) in relation to water, of granting pollution licences under Part VIII of that Act.

(3) After the delegation has been made as provided under subsection (2) and division 5 has come into effect, if there is any conflict between this Act and section 26, section 34(2) or Part VIII of the National Environment Act, this Act shall prevail.

### **4. Objectives.**

The objectives of the Act are—

- (a) to promote the rational management and use of the waters of Uganda through—
  - (i) the progressive introduction and application of appropriate standards and techniques for the investigation, use, control, protection, management and administration of water resources;
  - (ii) the coordination of all public and private activities which may influence the quality, quantity, distribution, use or management of water resources;
  - (iii) the coordination, allocation and delegation of responsibilities among Ministers and public authorities for the investigation, use, control, protection, management or administration of water resources;
- (b) to promote the provision of a clean, safe and sufficient supply of water for domestic purposes to all persons;
- (c) to allow for the orderly development and use of water resources for purposes other than domestic use, such as the watering of

stock, irrigation and agriculture, industrial, commercial and mining uses, the generation of hydroelectric or geothermal energy, navigation, fishing, preservation of flora and fauna and recreation in ways which minimise harmful effects to the environment;

- (d) to control pollution and to promote the safe storage, treatment, discharge and disposal of waste which may pollute water or otherwise harm the environment and human health.

## PART II—WATER RESOURCES.

### DIVISION 1—RIGHTS IN WATER AND WATER ADMINISTRATION.

#### *Rights in water.*

#### **5. Rights in water vested in the Government.**

All rights to investigate, control, protect and manage water in Uganda for any use is vested in the Government and shall be exercised by the Minister and the director in accordance with this Part of the Act.

#### **6. Interests to be in accordance with the Act.**

(1) Notwithstanding any other law to the contrary, no person shall acquire or have a right to—

- (a) use water;
- (b) construct or operate any works; or
- (c) cause or allow any waste to come into contact, whether directly or indirectly, with any water,

other than under the provisions of this Part of the Act.

(2) At the commencement of this Act—

- (a) no person shall sink any well or use any water pursuant to section 31 of the Mining Act without a permit to undertake works or a water permit as may be required by the Minister or Regulations made under this Act;
- (b) no consent for alluvial or river locations under section 41 of the Mining Act shall be given without the prior written approval of the Minister, and any consent given shall be subject to conditions that the Minister may require;
- (c) reference to the Minister under section 56 of the Mining Act shall

be deemed to be a reference to the Minister under this Part of the Act;

- (d) the provisions of section 40 dealing with works and uses existing before the commencement of this Act shall apply to existing permits and rights to use water granted under Part IV of the Mining Act exercised by the Minister and the director in accordance with the provisions of this Act.

## **7. General rights to use water.**

- (1) Subject to section 8, a person may—
  - (a) while temporarily at any place; or
  - (b) being the occupier of or a resident on any land,

where there is a natural source of water, use that water for domestic use, fighting fire or irrigating a subsistence garden.

(2) In addition to the right to water under subsection (1), the occupier of land or resident on land may, with the approval of the authority responsible for the area, use any water under the land occupied by him or her or on which he or she is resident on or any land adjacent to that land.

(3) The rights under subsections (1) and (2) do not per se authorise a person to construct any works.

## **8. Limitation on use of water.**

(1) The Minister may, in relation to any water source, where the situation so requires, by notice published in a manner appropriate for the area as the Minister may see fit—

- (a) prescribe places from which water may be extracted for use;
- (b) prescribe the time and manner in which water may be used;
- (c) at times of shortage or anticipated shortage—
  - (i) regulate water to be used for particular purposes;
  - (ii) regulate, restrict or prohibit the application of a water permit, waste discharge permit or other permit or licence issued under this Part of the Act;
  - (iii) on the advice of the Water Policy Committee, declare any part of Uganda to be a controlled area and establish a comprehensive and integrated plan for managing land, water and other natural resources within that area;
- (d) temporarily or permanently prohibit the use of water from a given

- source on health grounds;
  - (e) require any person to take measures, as may be specified in the notice, to avoid, reduce or repair damage to a source of water or neighbouring land from the watering of stock.
- (2) No person shall extract water unless authorised under this Part of the Act.
- (3) Water shall be deemed to have been extracted if there exists on the land in question any pipe, channel, tank or other means of extracting water.

*Water Policy Committee.*

**9. Water Policy Committee.**

- (1) There shall be a Water Policy Committee consisting of—
  - (a) the Permanent Secretary in the Ministry responsible for water resources;
  - (b) the executive director, National Environment Management Authority;
  - (c) the director responsible for irrigation;
  - (d) the director responsible for animal industry and fisheries;
  - (e) the commissioner responsible for industry;
  - (f) the commissioner responsible for hydropower;
  - (g) one district council chairperson;
  - (h) one chief administrative officer;
  - (i) the managing director, National Water and Sewerage Corporation;
  - (j) two persons having special qualifications or experience relevant to the functions of the Water Policy Committee; and
  - (k) the director of water development.
- (2) The Minister shall appoint the members specified under subsection (1)(g), (h) and (j) who shall hold office for a period of three years.
- (3) The officers who are members of the Water Policy Committee by virtue of their offices shall not delegate their powers under the committee.
- (4) The Permanent Secretary of the Ministry responsible for natural resources shall be the chairperson of the Water Policy Committee.

(5) The director shall be the secretary of the Water Policy Committee.

(6) The Minister shall appoint a deputy chairperson of the Water Policy Committee from among the members of the committee.

(7) The Water Policy Committee may co-opt any person to the committee as it may require for the proper discharge of its functions.

(8) The directorate of water development of the Ministry responsible for natural resources shall be the secretariat of the Water Policy Committee.

#### **10. Functions of the Water Policy Committee.**

The functions of the Water Policy Committee shall be—

- (a) to assist the Minister in the coordination of hydrological and hydrogeological investigations;
- (b) to coordinate the preparation, implementation and amendment of the water action plan and to recommend the water action plan to the Minister;
- (c) at the request of the Minister, to advise any other Minister who may request advice on—
  - (i) issues of policy relevant to the investigation, use, control, protection, management or administration of water;
  - (ii) any other issue that may be referred to it;
- (d) whether on request or otherwise, to review the law relating to water and advise the Minister on any amendments that may be required for the improvement or better administration of that law;
- (e) to advise the responsible Minister, as the case may require, on any dispute between agencies involved in water management that may be referred to it; and
- (f) to undertake any other functions conferred upon it under this Act or referred to it from time to time.

#### **11. Delegation of powers and functions.**

(1) The Minister may, in writing, delegate all or any of his or her powers or functions under this Part of the Act other than—

- (a) the powers conferred by this section;
- (b) the power to make regulations;
- (c) the power to fix charges or fees; and

(d) the power to determine appeals.

(2) Delegation under subsection (1) may be in relation to a matter or class of matters or to a part of Uganda.

(3) The Minister may in writing, revoke a delegation under subsection (1), and the fact that the Minister has delegated a power or function shall not prevent him or her from exercising that power or function.

(4) Powers and functions delegated under subsection (1) shall be exercised or performed in accordance with the conditions set out in the instrument of delegation.

(5) A delegate under this section shall have all necessary power to exercise the powers or functions delegated notwithstanding that the delegate would not be legally empowered were it not for this section.

(6) A delegate exercising the powers and functions delegated under this section may receive written or oral submissions from any person on any matter within the delegation.

(7) Where in the exercise of a power or performing of a function the opinion or discretion of the Minister is required, the delegate may, unless the contrary intention appears, exercise or perform the power or function upon his or her own opinion or discretion as the case may require.

(8) Where there is a conflict between matters to which regard has to be made under this Act and the instrument of delegation, the person acting on behalf of the Minister or an authorised person may apply to the Minister for directions; and the Minister shall issue directions within fourteen days of receiving the request, and the directions shall be binding on the applicant, who may publish such directions as he or she may see fit.

## DIVISION 2—WATER RESOURCE PLANNING.

### *Inventory of water resources.*

#### **12. Water resources investigation.**

- (1) The director may provide for—
  - (a) the collection, collation and analysis of data concerning the



occurrence, flow, characteristics, quality and use of any water or waste;

- (b) the systematic gauging and recording of rainfall and of the volume, flow and quality of other water or waste;
- (c) the construction, operation and removal of gauging, recording and monitoring stations and investigation and monitoring boreholes;
- (d) the sampling and analysis of any water or waste.

(2) The director may do anything necessary or expedient for or in connection with the exercise of the powers conferred by subsection (1).

### **13. Minister's power to require records, etc.**

(1) The director may, by regulation or by notice served on any person, require any class or type of persons, or the person on whom notice is served, as the case may be, to—

- (a) keep and maintain records;
- (b) install, operate and maintain equipment;
- (c) take samples, dispose of them in a manner and submit them to such analysis by such person or class of persons;
- (d) provide information to a person,

concerning the investigation, use, control, protection, management or administration of any water or concerning any waste, as may be prescribed in the regulation or notice.

(2) Anything required to be done by a regulation made or a notice given under subsection (1) shall be done at the expense of the person to whom the notice or regulation applies, unless the Minister otherwise determines.

(3) A person who contravenes or fails to comply with or causes or allows any person to contravene or fail to comply with this section commits an offence.

(4) Any person who furnishes any information under this section or who causes or allows any statement or representation to be made which he or she knows to be false or misleading in a material particular commits an offence.

#### **14. Power to enter land and investigate water resources.**

(1) The director, an authorised person or a public authority may enter and remain on land for purposes of performing functions or exercising powers conferred under this Part of the Act and may take such measures and construct or operate works as may be necessary for the investigation, use, control, protection, management or administration of water.

(2) Subject to section 33, an authorised person may enter any land for the purpose of investigating water resources and may—

- (a) construct works;
- (b) install and equip gauging, recording and monitoring stations;
- (c) investigate or monitor bores and ancillary works on any land;
- (d) make surveys;
- (e) take measurements or samples;
- (f) make alterations or remove any of the above.

(3) Whatever is attached to land does not become part of the land for the purposes of giving the owner or occupier of land a proprietary interest in it.

#### **15. Obligations on entry on land.**

In exercising the powers under section 14(1), the authorised person shall—

- (a) cooperate as much as possible with the owner and occupier of the land;
- (b) cause as little harm and inconvenience as possible;
- (c) stay on the land only for as long as is reasonably necessary;
- (d) remove from the land, on completing any works, all plant machinery, equipment, goods or buildings brought on to the land, other than anything that the owner or occupier of the land agrees may be left there;
- (e) leave the land as nearly as possible in the condition in which it was prior to entry being made.

*National water action plan.*

#### **16. National water action plan.**

(1) The Minister may, on the basis of data progressively generated under water resources investigations, require the Water Policy Committee

to—

- (a) coordinate the preparation, revision and keeping up-to-date of a comprehensive action plan for the investigation, use, control, protection, management and administration of water for the nation;
- (b) recommend an action plan and revision of it.

(2) The Minister shall submit the action plan recommended to him or her under subsection (1) to the Cabinet with his or her recommendations within twenty-one days of receiving it.

(3) The components of the action plan and procedures for its preparation, revision and recommendations to and consideration by the Minister may be as prescribed by the Minister, and if the Minister does not prescribe, as may be determined by the Water Policy Committee.

#### **17. Action plan to be adhered to.**

(1) After approval by the Cabinet, the Minister shall by legal notice issue the action plan which shall be binding to all persons and public authorities.

- (2) The action plan may, from time to time, specify the types of activities, developments or works which may not be done without—
- (a) prior approval of the Water Policy Committee; or
  - (b) prior amendment of the action plan.

#### **DIVISION 3—HYDRAULIC WORKS AND USES OF WATER.**

#### **18. Construction of works.**

(1) No person shall construct or operate any works unless authorised to do so under this Part of the Act.

(2) A person wishing to construct any works or to take and use water may apply to the director in the prescribed form for a permit to do so.

(3) The director shall, on receipt of an application under subsection (1), give public notice of the application in the prescribed manner.

- (4) The director may, after taking into consideration any objection

that may be raised and after consultation with any person or public authority as he or she may see fit, grant a permit to the applicant.

(5) The director may grant the permit under subsection (4) on conditions that he or she may think fit; and the conditions may—

- (a) require the payment of fees or charges that may be prescribed under this Act;
- (b) specify the way in which land where water is used under the water permit is to be drained;
- (c) require the person to whom the permit is granted to make compensation to any other person.

(6) Subject to article 26 of the Constitution, compensation under subsection (5)(c) shall be in a manner prescribed by the Minister.

(7) A grant of an application under this section does not imply any representation or guarantee by the director, authorised person or public authority that water will be available at the place.

## **19. Exemption of works.**

Subject to guidelines established by the Minister from time to time, the director may exempt—

- (a) a public authority; or
- (b) a class of persons or works;

from all or any of the provisions of section 18(1) on such conditions as he or she may deem fit.

## **20. Standard conditions.**

A holder of a permit issued under this division of the Act shall—

- (a) not cause or allow any water to be polluted;
- (b) prevent damage to the source from which water is taken or to which water is discharged after use;
- (c) take precautions to ensure that no activities on the land where water is used result in the accumulation of any substance which may render water less fit for the purpose for which it may be reasonably used;
- (d) observe conditions prescribed by regulations made under this Act; and
- (e) observe any special condition that may be attached to the permit.

## **21. Inspection of works.**

Where under section 18, a permit is granted subject to a condition that the works shall for purposes of this Act be inspected and approved by an authorised person, the inspection, approval or certificate given by the authorised person shall not—

- (a) be deemed to imply that the works are properly designed or constructed; or
- (b) support or justify any claim against the Government, public authority or authorised person in connection with the works.

### **DIVISION 4—REVISION, VARIATION AND CANCELLATION OF WATER PERMITS.**

## **22. Suspension or variation of a water permit.**

(1) Where in the opinion of the director the water available in an area is, or is likely to become, insufficient in quantity or quality for the needs of the persons using or seeking to use it from that source, the director may, by notice in writing to the holder of a water permit for that area, suspend or vary the water permit.

(2) The director may impose conditions to any permit varied, suspended or granted under subsection (1), including requiring compensation to a holder of a water permit by another holder of a water permit.

(3) Subject to article 26 of the Constitution, compensation under subsection (1) shall be as is prescribed under this Act.

## **23. Quantification for a water permit.**

The director may specify the quantity of water that may be taken under a permit where the permit does not specify the quantity.

## **24. Duration of a water permit.**

(1) The director may specify the duration of a permit where it is not specified in the permit.

(2) Unless the director determines otherwise, the director shall not,

under subsection (1), specify a date less than two years from the date of the director's specification.

**25. Cancellation of a permit.**

The director may cancel a water permit where in his or her opinion the holder of a water permit has—

- (a) failed to comply with any express or implied condition to which the water permit is subject;
- (b) taken or used more water than he or she is entitled to take in any period;
- (c) taken or used water for a purpose other than that for which he or she is entitled;
- (d) failed to comply with any provision of this Act;
- (e) not made full beneficial use of the permit within the two preceding years.

**26. Cancellation or variation of a permit for a public purpose.**

(1) Subject to section 33, where the director is of the opinion that in order to make water available for a public purpose it is necessary to cancel or vary a water permit, the director may cancel or vary the water permit.

(2) The Minister may, by notice in the Gazette, declare any purpose to be a public purpose for the purpose of this section.

**27. Variation of a water permit upon application of the holder.**

On the application of the holder of a water permit, the director may vary the permit or any condition attached to a permit.

DIVISION 5—WASTE DISCHARGE PERMITS.

**28. Declaration of prohibited waste by the Minister.**

(1) The Minister may, in any area prescribe—

- (a) waste which may not be discharged;
- (b) trades which may not discharge waste; or
- (c) classes of premises or particular premises from which waste may not be discharged,

directly or indirectly into any water except in accordance with a waste

discharge permit.

(2) A person who—

(a) is responsible for the production, storage, discharge or deposit of any waste;

(b) is engaged in any trade; or

(c) owns or occupies any premises,

prescribed under subsection (1) shall not cause or permit any waste to be discharged directly or indirectly into any water, except in accordance with a waste discharge permit.

(3) A person who contravenes subsection (2) commits an offence.

## **29. Application for a waste discharge permit.**

(1) A person wishing to discharge waste may apply to the director for a waste discharge permit in the prescribed manner.

(2) The director shall, on receipt of an application under subsection (1), give public notice of the application made in the prescribed manner.

(3) Any person with an interest in the outcome of an application made under this section may give notice of objection to the director in a manner and within the time prescribed.

(4) The director shall consider every application and objection to it and, after consultations with any persons or public authorities which he or she sees fit, may grant the permit on such terms and conditions as he or she sees fit.

(5) The Water Policy Committee, at the request of the Minister or on its own initiative, may prepare guidelines or conditions concerning waste discharge permits and recommend them to the Minister.

(6) The Minister shall consider the recommendations made under subsection (5) and may prescribe the recommended guidelines or conditions as the case may require, with or without amendments.

(7) Without limiting subsection (4), the conditions of any waste discharge permit may—

(a) specify, restrict or prohibit certain types, volumes or

concentrations of waste which may be produced, stored, discharged or deposited;

- (b) specify the manner in which waste is to be stored, treated, discharged or otherwise dealt with;
- (c) require the holder, at his or her own cost, to install pollution control or waste treatment equipment of a type specified by the director and to operate that equipment in a manner determined by the director;
- (d) require the holder to take measures specified by the director for the purpose of minimising the possibility of pollution occurring as a result of any activity conducted or proposed to be conducted on land owned or occupied by the holder;
- (e) require the holder, at his or her own cost, to provide monitoring equipment specified by the director;
- (f) require the holder, at his or her own expense, to carry out a monitoring programme specified by the director and to provide the director with information and data relating to the characteristics, volume and effects of waste being produced, stored, treated, discharged, deposited or otherwise disposed of;
- (g) require the holder to do or cause to be done any other act or thing specified by the director which the director considers necessary for protecting the environment or preventing, controlling or abating pollution.

(8) The director may, at the request of a holder of a waste discharge permit, amend the terms of the permit.

(9) The director may, at any time, amend the terms of, suspend the operation of, or cancel a waste discharge permit if, in his or her opinion, it is necessary to protect the environment or to prevent the pollution of any water.

### **30. Reference of permits to other authorities.**

(1) Where the director proposes to amend the terms of a waste discharge permit, he or she shall refer the proposal, together with a copy or summary of the application and appropriate plans, specifications and other information—

- (a) to public authorities or persons that may be prescribed by regulation; and
- (b) to any other public authority which or person who may be directly affected by activities pursuant to the proposed



amendment,  
and shall take further steps that may be prescribed concerning the public advertisement of, and objections to, the proposed amendment.

(2) A public authority or person to which a proposal is referred under subsection (1) shall inform the director in writing within thirty days after the day on which the proposal was referred—

- (a) whether the proposal is supported or whether there are objections to it;
- (b) whether, and if so what, special terms should be included in the proposed permit or amendment.

(3) The director shall—

- (a) take into account any report and comments received under subsection (2); and
- (b) refuse to grant the proposed permit or make the proposed amendment if a competent public authority or person submits a written report objecting to the proposal on the grounds that public health is likely to be endangered by the proposed permit or amendment.

### **31. Prohibition of pollution.**

(1) A person commits an offence who, unless authorised under this Part of the Act, causes or allows—

- (a) waste to come into contact with any water;
- (b) waste to be discharged directly or indirectly into water;
- (c) water to be polluted.

(2) Subsection (1) shall apply to permits granted and works constructed before the commencement of this Act.

(3) In any proceedings for an offence under subsection (1), proof of the existence of a drain, pond, dump or other means by which waste may be conveyed, retained or deposited as to come into contact, directly or indirectly, with water shall be prima facie evidence of pollution of that water.

(4) A person or public authority contravening subsection (1) through which damage is caused is liable to pay the cost of remedying the damage caused and reinstating the environment, as far as is possible, to the condition that would have existed if the damage was not caused.

(5) Where a person or authority fails to comply with subsection (4), the Minister may—

- (a) apply to court for enforcement of compliance with the provisions; or
- (b) enter any land and take such measures as may be necessary to ensure compliance with the provisions.

(6) In any proceedings under subsection (5), the court may, on application by the Minister, require that person or authority to pay into court a sum not being less than 80 percent of the cost estimated by the Minister of remedying the damage caused and reinstating of the environment.

#### DIVISION 6—MISCELLANEOUS PROVISIONS FOR PART II.

### **32. Charges and fees.**

(1) The Minister may, by notice in the Gazette, fix fees and charges for—

- (a) services provided by the Minister, the director, a public authority or authorised person under this Part of the Act;
- (b) the taking or use of water under a water permit granted under this Part of the Act; or
- (c) the discharge of waste under a waste discharge permit granted under this Part of the Act.

(2) Charges and fees fixed under subsection (1) shall be in accordance with pricing policies established by the water action plan or other policy as may be determined by the Government.

(3) The director may levy and demand charges or fees fixed by the Minister under subsection (1).

### **33. Damage caused by the Minister etc. to be compensated.**

(1) Where damage is caused to land through the exercise of powers conferred upon the Minister, the director or an authorised officer by this Act, the Government shall compensate all parties having an interest in that land.

- (2) For purposes of this section, damage to land includes—
  - (a) deprivation of possession of the surface land;

- (b) damage to the surface of land and any improvements, trees or crops;
- (c) damage to stock; and
- (d) all consequential damage.

(3) Compensation under this section may be—

- (a) in the form of money;
- (b) provision of an alternative supply of water;
- (c) exchange of land for another piece of public land if the land lost was under the Land Reform Decree, 1975; or
- (d) any other type of compensation which the Minister may consider appropriate.

(4) In calculating monetary compensation—

- (a) for damage to land under this section;
- (b) in respect of compulsory acquisition of any interest in land,

no amount shall be paid in respect of the taking or use of water on, adjacent to or beneath that land, unless the effect of that taking or use is to deprive the owner or occupier of the right to use water conferred by section 8, or any water permit granted under this Part of the Act.

#### **34. Register of permits.**

(1) The director shall maintain a register of all permits granted and any works or uses of water registered under this Part of the Act and shall record in the register—

- (a) any variation, modification, suspension or cancellation thereof; and
- (b) any easement created over land.

(2) The director may provide extracts from the register maintained under subsection (1) to any person who applies in the prescribed manner.

(3) An extract from the register, certified to be under the hand of the director, shall be—

- (a) admissible evidence in all court proceedings without further proof unless proved otherwise; and
- (b) prima facie evidence of the facts recorded in the extract.

### **35. Prescribed guidelines.**

The Minister may, on the advice of the Water Policy Committee, from time to time prescribe guidelines to be followed by the director, authorised person or public authority while exercising their powers under this Part of the Act.

### **36. Easements.**

(1) The holder of a water permit who wishes to bring water to, or drain water from, his or her land over land owned or occupied by another person may apply to the director for the creation of an easement over that land if he or she has been unable to obtain an easement by agreement with the owner or occupier of that land.

(2) The holder of a waste discharge permit who wishes to drain waste from his or her land over land owned or occupied by another person may apply to the director for the creation of an easement over that land if he or she has been unable to obtain an easement by agreement with the owner or occupier of that land.

(3) On receiving the application under subsection (1) or (2), the director shall, in the prescribed manner, give notice to the owner, occupier or any other person having an interest in that land.

(4) A person having any objection to an application made under subsection (1) or (2) may give notice of objection to the director in a manner and within the period that may be prescribed.

(5) Subject to section 35 and after giving a hearing to all persons having an interest in the land, including the applicant, who wish to be heard, the director may create an easement over that land in the prescribed form as may be appropriate.

(6) An easement under subsection (5) may make provision for—

- (a) the construction of works necessary to carry water or waste across that land;
- (b) construction of fences, bridges, crossings or other works on that land;
- (c) the amount of compensation, if any, to be paid to the owner, occupier or other person having interest in that land,

and the person having the easement shall comply with the provisions.

(7) Any person aggrieved by the decision of the director under subsection (6) may appeal to the High Court against the decision, if the decision was made without his or her consent.

(8) If a person having an easement fails to comply with subsection (6), the director may cancel the easement and notify that person and the registrar of titles.

(9) If the person having an easement fails to maintain any works he or she constructed under this section, the owner or occupier of the land on which the works are situated may maintain or repair the works and recover the reasonable costs as a civil debt from the person having the easement.

(10) Any compensation due under this section which remains unpaid for an unreasonable period may be obtained as a civil debt.

(11) An easement created under this section terminates six months after the date of creation, unless it is registered with the registrar of titles.

### **37. Inspection of land in relation to water use.**

An authorised person may enter land for purposes of—

- (a) inspecting works or use of water; or
- (b) taking samples or making tests, to find out whether—
  - (i) water is being wasted, misused or polluted;
  - (ii) the terms of any water permit, waste discharge permit or any other permit granted under this Part of the Act are being complied with;
  - (iii) an offence is being committed against this Part of the Act, or the Act is otherwise being complied with.

### **38. General appeals.**

(1) Except as otherwise provided under this Act, any person aggrieved by a decision of the director, authorised person or public authority made under this Part of the Act may, within one month, appeal to the Minister in a prescribed manner.

(2) A person who failed without reasonable cause or neglected to exercise his or her right of objection under this Part of the Act shall not have

a right to appeal under subsection (1).

### **39. Offences.**

- (1) Any person who—
  - (a) causes or allows water to be wasted, misused, or without reasonable cause, excessively consumed; or
  - (b) takes or uses water for a purpose other than provided by the water permit,

commits an offence.

- (2) A person commits an offence who—
  - (a) assaults, threatens, resists, obstructs, hinders or delays the authorised person or a public authority in the performance of any function or duty under this Part of the Act; or
  - (b) allows or encourages another person to do any of the acts under paragraph (a).

(3) Where a person is convicted under subsection (2), the court may, in addition to any other penalty, order that person to pay, by way of compensation, any person who may have suffered any damage as a result of the action for which that person is convicted.

- (4) A person commits an offence who—
  - (a) interferes;
  - (b) attempts to interfere; or
  - (c) allows another person to interfere,

with any hydrological station.

(5) Any person who contravenes any of the provisions of this Part of the Act commits an offence.

### **40. Penalties.**

(1) Any person convicted of an offence under this Part of the Act for which no other penalty is provided is liable to a term of imprisonment of not more than five years or to a fine of not more than six million shillings and is liable to a fine of one million shillings for every day during which the offence is continued.

(2) Where under this Part penalty is provided for a continuing or

subsequent offence, the penalty shall apply—

- (a) in the case of a continuing offence, if the person continues to contravene the provision for which he or she was convicted after the date on which he or she was convicted; or
- (b) in the case of a subsequent offence, if that person contravenes the same provision for which he or she was convicted earlier.

#### **41. Protection from liabilities.**

Except as expressly provided under this Part of the Act, the Minister, director or authorised officer shall not be personally liable for any act done or omission made in good faith in the exercise of the functions and duties under this Part of the Act.

#### **42. Transitional period and existing works and permits.**

(1) All works lawfully constructed and all permits dealt with under this Part of the Act which were lawfully issued before the commencement of this Act shall be deemed to have been issued under this Act, and any such works or permits shall be registered in the manner and within the period prescribed by regulations; and the Minister may, in relation to those works or permits, exercise all powers conferred upon him or her under this Part of the Act.

(2) Where a person fails to register his or her permit or works within the period prescribed by the Minister, his or her water permit or permit for works shall lapse, and he or she shall only use water or the works after obtaining a water permit or permit to construct works under this Part of the Act.

#### **43. Decision to be in regard to objectives.**

While exercising his or her powers and function under this Act, the Minister, director, authorised person or any other person shall have regard to—

- (a) the objectives of this Act;
- (b) any relevant international agreement regulating the use of water to which Uganda is a party;
- (c) the provisions of the water action plan;
- (d) any policy of the Government concerning the decentralisation of administrative responsibilities;
- (e) any guidelines prescribed by the Minister under this Part of the

- Act; and
- (f) any delegation that may have been made by the Minister.

**44. Director's power to give direction.**

(1) The director may, by notice in writing served on any person, require that person, within the period specified in the notice, to do or not to do any thing or to take such measures or construct or remove works that may, in the opinion of the director, be necessary or desirable for the investigation, use, control, protection, management or administration of water.

(2) Where a person fails to comply with a notice served under subsection (1), the director may enter any land and take such measures and construct or remove such works as are necessary to ensure complete compliance with the notice and may recover reasonable costs of so doing from that person.

PART III—WATER SUPPLY AND SEWERAGE.

DIVISION 7—WATER AND SEWERAGE AREAS AND AUTHORITIES, AND USER GROUPS AND ASSOCIATIONS.

**45. Declaration of water and sewerage areas.**

(1) The Minister may, for purposes of this Part, by notice published in the Gazette, declare any area to be—

- (a) a water supply area; or
- (b) a sewerage area.

(2) A notice made under subsection (1) shall declare the boundaries of an area by any means that is most descriptive of the area or by reference to either or both of—

- (a) survey coordinates; or
- (b) distances from one or more prominent physical features.

**46. Appointment of water or sewerage authorities.**

(1) The Minister shall by notice published in the Gazette or other form of publication most appropriate for the area appoint any person or public body to be—

- (a) a water authority for any water supply area declared under



- section 45;
- (b) a sewerage authority for any sewerage area declared under section 45.

(2) The Minister may appoint under subsection (1) a person or existing public authority together with any other person or persons named by the Minister.

#### **47. Functions of water and sewerage authorities.**

- (1) The functions of an authority shall be—
  - (a) to provide water supply services for domestic, stock, horticultural, industrial, commercial, recreational, environmental and other beneficial uses as is required by the declaration establishing the authority or the performance contract;
  - (b) to manage the water resources entrusted to it;
  - (c) to provide and manage sewerage services as may be required by the declaration or performance contract;
  - (d) to give effect to any direction by the Minister relating to water or sewerage; and
  - (e) to do anything connected or incidental to the above.

(2) In the exercise of its functions, an authority shall endeavour to provide its services to the extent and standards determined by the Minister and provide those services—

- (a) in a manner which is most beneficial to the people of Uganda;
- (b) efficiently and economically;
- (c) in a socially and environmentally responsible manner; and
- (d) in consultation with appropriate public authorities and relevant community groups.

(3) In all its functions, an authority shall adhere to all relevant stipulations set out in divisions 3, 4, 5 and 6 of Part II of this Act.

#### **48. Performance contracts.**

(1) The Minister shall enter into performance contracts with each authority appointed by him or her, and a contract shall include among other things—

- (a) terms of reference of the authority relating to its rights and obligations;

- (b) the extent of the authority's interest in any land, or works constructed or financed by the Government or works constructed by the authority;
- (c) terms of reference of the authority relating to the operations of the authority in the exercising of its functions;
- (d) provisions under this Part of the Act, if any, that will not apply to the authority;
- (e) the period of the contract; and
- (f) any other information or matter that the Minister and the authority may find necessary for the better operations of the authority.

(2) In the performance of the contract, an authority shall make a report to the Minister on the achievements of the authority since the making of the contract or the last report by the authority at such intervals and in a manner that the Minister may prescribe in relation to that authority.

(3) The director may exercise such functions in relation to a performance contract as may be specified—

- (a) in that performance contract; or
- (b) by the Minister,

including any power to supervise or inspect the activities of an authority and report his or her findings to the Minister.

(4) No contract shall dispense with or qualify any duty or obligation imposed upon an authority under Part II of this Act or any other law.

(5) The Minister may, from time to time, give directions to any authority on general policy, and the authority shall give effect to that policy.

#### **49. Service discretionary.**

The supply of any services by an authority to any person shall be a discretion of the authority; but where the authority chooses to supply services, the water or other service quality shall be that required by regulations or by a performance contract with the authority.

*Water user groups and associations.*

**50. Water user groups and water and sanitation committee.**

(1) A set of individuals or households may form a water user group and collectively plan and manage the point source water supply system in their area.

(2) A water user group may collect revenue from persons using the water supply system for the maintenance of the system, and the tariffs to be collected under this subsection shall be approved by the director.

(3) A water user group shall operate through a water and sanitation committee which shall be—

- (a) the executive organ of the group; and
- (b) in addition to water supply, responsible for sanitation and hygiene in the area.

**51. Water user association.**

(1) Where a water supply system is established by and serving more than one water user group, each operating through a water and sanitation committee, the committees involved shall form a water user association which shall consist of an agreed representative of each committee.

(2) An association formed under subsection (1) shall manage the water system and may with the approval of the director set tariffs and collect revenue for the maintenance of the system.

**52. Associations and committees to work under director.**

(1) Water and sanitation committees and associations shall operate under the direction of the director of the directorate of water development.

(2) Local authorities may organise the formation of water user groups and associations within their jurisdiction.

DIVISION 8—WATER SUPPLY.

*Supply for private and public purposes.*

**53. Construction of water works.**

(1) A water authority may acquire, construct or operate works for the supply of water.

(2) Works acquired, constructed or operated under this section may be situated within or outside the area for which the authority is appointed.

(3) An authority may alter the capacity or location of any works and may temporarily or permanently discontinue the use of any works generally or for any specified purpose.

(4) Before discontinuing the use of any works the authority shall, where practicable, give notice to all persons likely to be affected by the nonoperation of the works.

**54. Recovery of capital costs.**

(1) With the approval of the Minister, an authority may recover the costs or any part of the costs of acquiring or constructing any works after considering the benefits from the works and any contribution that the authority may assess to be contribution from the owner of the land.

(2) Any amount to be recovered by the authority under subsection (1) shall be paid to the authority—

- (a) by the owner of the land; or
- (b) from such other fund as the Minister from time to time may establish for the purpose of defraying amounts payable to authorities by an owner excused from payment on the ground—
  - (i) of poverty of the owner of land; or
  - (ii) that payment would cause undue hardship.

**55. Declaration of completed water supplies.**

(1) A water authority may, by notice published in a manner deemed appropriate by the authority, declare any works acquired or constructed by the authority to be effective in a given water supply area.

(2) On the declaration of works to be effective in an area, the owner of any land within the water supply area shall if he or she benefits in any way from the works be liable to the rates or charges that may be prescribed by the water authority, whether or not the land is occupied or connected to the works.

(3) Where, in the opinion of the water authority, the cost of extending existing works to supply water to an applicant is not commensurate with sums likely to be recovered from water charges, the authority may require the applicant to meet the costs of extending the existing works as a condition of providing supply.

#### **56. Requiring owner to connect to works.**

(1) A water authority may, by notice in writing, require an owner of land within the water supply area—

- (a) to connect the land to the authority's works;
- (b) to remove any existing connection between that land and the authority's works; or
- (c) to carry out any works or repair that the authority considers necessary for the provision of the services.

(2) The owner of land or his or her agent may apply, in a manner and form prescribed by the water authority, and the water authority may agree, to connect that land to the works on terms and conditions as the authority may determine.

(3) A water authority may, by notice in writing to a group of owners of land, require those owners to connect their land by a combined connection to the authority's works within a specified period.

(4) Any notice under this section shall be served on each owner whose land is required to be connected.

(5) Where the owner of land notified under this section fails to comply with the notice within the specified period or any longer period agreed to by the authority, the authority may connect the land as required by the notice and recover reasonable costs of doing so from the owner or under section 54.

(6) An application made under subsection (2) shall not be unreasonably refused.

(7) The authority may, as it may consider just and reasonable, apportion the costs or expenses to be paid by each owner of land where a group of owners are required to make a combined connection.

**57. Authority to supply water by measure or otherwise.**

A water authority may supply water to any person or land by measure or in any other manner, subject to terms and conditions that the authority may determine or as may be prescribed by the Minister.

**58. Metering.**

(1) The water authority may install a meter for the purposes of measuring the amount of water supplied by it.

(2) The water authority shall keep a record of all meters installed by it.

(3) An authorised person may enter land for purposes of affixing, installing, maintaining, repairing, replacing, removing, testing or reading any meter and may take such action and do such things as may be reasonably necessary.

(4) Where a meter is installed—

(a) the person supplied shall not cause or permit the meter to be tampered with, altered, damaged or destroyed;

(b) the meter shall be properly protected and shall remain accessible to an authorised person, free from soil, plants, vegetation or any other obstruction.

(5) Where a person fails to comply with subsection (4), an authorised person may enter the land where the meter is situated and repair any damage or remove any obstruction or alter the position of the meter and recover the cost involved from that person.

(6) A meter installed under this section remains the property of the water authority.

(7) Where a meter is not functioning properly, the authorised person may estimate the amount of water used for the period during which the meter was or is not functioning properly.

(8) A person requiring to remove or alter the position of a meter shall give seven days notice in writing to the water authority; and a reading of the water used shall be taken before any meter is removed or altered.

(9) No person other than an authorised person shall remove, disconnect, or alter the position of, or in any way interfere with, a meter.

#### **59. Testing meters.**

(1) This section shall apply to those areas in which the Minister declares it to apply.

(2) Where a meter has been installed under section 58, the person supplied may request the water authority in writing to test the meter; and on receipt of the request and payment of a fee that may be prescribed, the water authority shall test the meter.

(3) If the meter registers above 5 percent more than was actually passed through the meter at the test, the water authority shall return the fee.

#### **60. Authority to erect hydrants and standpipes.**

(1) The Minister may require a water authority to erect fire hydrants and standpipes for the supply of water for extinguishing fires.

(2) Hydrants shall be erected in conspicuous places and at convenient distances that a water authority considers appropriate, and the authority shall keep them in effective order.

(3) Where it is impractical or inappropriate for a water authority to provide a reticulated supply of water to particular premises, it may supply water to those premises by a standpipe erected in such reasonably convenient location as the authority considers appropriate.

*Water restrictions.*

**61. Water restrictions.**

(1) A water authority may prohibit, regulate or restrict the consumption of water supplied, by notice published as is provided under subsection (3).

(2) The following shall be specified in a notice made under subsection (1)—

- (a) the area to which the notice applies;
- (b) the period during which the restriction, prohibition or regulation shall last;
- (c) the manner in which the notice shall be enforced; and
- (d) the purpose for the restriction, prohibition or regulation of the water.

(3) A notice issued under subsection (1) may be published—

- (a) in a newspaper circulating in the area to which the notice relates;
- (b) by radio, television or mobile loudspeaker in the area to which the notice relates.

(4) A person commits an offence who fails to comply with, or causes or allows any other person not to comply with, a notice under this section.

(5) In any proceedings for an offence under this section, a certificate signed by the person who, at the time of the broadcast, was in charge of the radio, television station or mobile loudspeaker from which publication was made, stating that the broadcast—

- (a) was made at the time or times specified in the certificate; and
- (b) included a statement of specified restrictions for a given period and in the areas specified in the certificate,

shall, unless the contrary is proved, be evidence of the broadcast of the matter.

DIVISION 9—PUBLIC AND PRIVATE SEWERAGE WORKS.

**62. Construction of sewerage works.**

(1) A sewerage authority may acquire, construct, operate or arrange for the construction or operation of works to provide sewerage services or to



dispose of or treat any sewage or waste.

(2) Sections 53(2) and (3) and 54 shall apply to a sewerage authority.

(3) A sewerage authority shall not temporarily discontinue or prohibit the use of any sewer unless it is expedient to do so in order to—

- (a) install, maintain or repair any works;
- (b) make any connection to or disconnection from a sewer; or
- (c) prevent the escape of sewage or the pollution of any water.

(4) Before permanently discontinuing or prohibiting the use of any sewer, a sewerage authority shall ensure that—

- (a) an alternative sewer exists which is capable of serving all land previously served by the existing sewer;
- (b) all affected land has been provided with a sewer connection to the alternative sewer, at the expense of the authority.

### **63. Declaration of completed sewerage works.**

(1) Whenever it becomes possible to provide sewerage to land within any sewerage area from works acquired or constructed under this Part of the Act, a sewerage authority may by notice declare the works to be effective in that sewerage area.

(2) On the declaration of works to be effective in an area, the owner of any land in the sewerage area shall be liable to the rates or charges that may be prescribed by the sewerage authority whether or not the land is occupied or connected to the works.

(3) The sewerage authority may—

- (a) with the approval of the Minister and by notice in writing, require any owner of land in any sewerage area to connect that land to the works;
- (b) connect any land to its works on application by the owner or his or her agent, in a form prescribed by regulation or the authority.

(4) Within one month of receipt of a notice under this section, the owner of land shall submit a plan for providing the land with a building sewer and other connected fittings to the authority; and the authority may approve the plan with or without conditions as it may see fit; and where the plan is approved, work shall be executed in conformity with the approved

plan within such period as the authority may specify.

(5) An application made under subsection (3)(b) shall not be unreasonably refused.

(6) Where in the opinion of a sewerage authority the cost of extending the existing works to provide sewerage to an applicant is not commensurate with the sums likely to be recovered through sewerage charges, the sewerage authority may require the applicant to meet the costs of extending the existing works.

(7) Where the owner of land fails to undertake work required of him or her under this Part—

- (a) the lessee or occupier of that land may, with the approval of the authority, execute the work and deduct the cost with interest at the rate of 10 percent per year (or such other rate as may be specified from time to time by the Minister) until repayment is made, from any rent due from him or her to that owner, or may recover the costs directly from the owner; or
- (b) the authority may execute the work and recover the cost as set out in section 54.

#### **64. Connections and work requirements within a sewerage area.**

After the declaration of a sewerage area, no building shall be erected or reerected unless it is connected to the sewerage authority's works, and all sewerage work on the land shall be constructed with the approval of the authority in conformity with the code of workmanship that may be prescribed.

#### **65. Application for the construction of a private sewer.**

(1) A person who wishes—

- (a) to construct a private sewer within that sewerage area; or
- (b) to connect a private sewer to the authority's sewer,

may apply to the relevant sewerage authority in a manner prescribed by regulations or the authority.

(2) The sewerage authority may, within one month, approve any application on conditions that it sees fit.

**66. Incorporation with public sewerage system.**

(1) Where in the opinion of a sewerage authority it would be expedient if an existing or proposed private sewer were made part of or connected with a sewerage scheme proposed or operated by the sewerage authority, the sewerage authority may require the applicant to construct the private sewer in a manner and to specifications that the sewerage authority may direct.

(2) Subject to subsection (4), a person shall comply with any direction given by a sewerage authority under subsection (1).

- (3) On the connection of a private sewer to an authority's works—
- (a) all property, rights and liabilities of the owner in relation to the private sewer and any land necessary for the operation, maintenance, repair or removal of the sewer vest in the authority; and
  - (b) the authority shall be solely responsible for operating, maintaining and meeting all outstanding or future costs of that sewer.

(4) A person aggrieved by a direction given by a sewerage authority under this section may within one month of being notified of the direction object in writing to the Minister.

(5) The Minister shall within fourteen days of receiving any objection made under subsection (4) consider the objection and decide whether to—

- (a) disallow the direction;
- (b) allow the direction subject to conditions or modifications; or
- (c) allow the direction.

(6) A sewerage authority shall pay to any person affected by a direction under this section—

- (a) any additional expenses incurred by that person in constructing or connecting the private sewer in the manner and to the specifications directed by the sewerage authority;
- (b) any additional costs of cleaning, repairing or maintaining the private sewer which are attributable to the direction.

(7) Any dispute or difference as to the amount of payment due from a sewerage authority to a person under this section may, at the election of

that person, be determined either by a court or by arbitration.

**67. Proper construction and operation.**

(1) No person shall construct a private sewerage installation except in accordance with any relevant code of workmanship prescribed under section 70; but any private sewerage installation which was legally constructed prior to the commencement of this Act shall be deemed to have been constructed under this Act.

(2) An authorised person may enter any land to inspect and ensure the proper construction of, or the safe and proper operation of, any private sewerage installation on that land.

(3) An authorised officer may take samples of such water or waste and submit them to analysis that he or she may see fit, and the sewerage authority may recover the cost of that analysis from the owner of the land from which samples are taken.

(4) A sewerage authority may, by notice in writing, direct an owner of land within such period as may be specified in the notice—

- (a) to empty, clean, maintain or repair;
- (b) to temporarily or permanently cease using;
- (c) to take such other action as the sewerage authority may specify in relation to,

any private sewerage installation on that land.

(5) A sewerage authority may, at the request of and at the expense of the owner, undertake such work as may be specified in the notice.

(6) Where the owner of land fails, within a specified period—

- (a) to take the action specified in the notice; or
- (b) to obtain the agreement of the sewerage authority to undertake the work specified in the notice and to pay to the sewerage authority the costs as estimated by the sewerage authority,

the sewerage authority may enter the land and undertake work or other measures that may be necessary to ensure compliance with the notice and may recover the costs from the owner or under section 54.

DIVISION 10—TRADE WASTE AGREEMENTS.

**68. Declaration of prohibited waste by an authority.**

- (1) Regulations or a sewerage authority may declare—
  - (a) any type of waste to be trade waste which may not be discharged;
  - (b) any type of trade, classes of premises or particular premises in which trade waste may not be discharged;

directly or indirectly into any sewer, sewer connection, building sewer or connected fittings except in accordance with a trade waste agreement.

- (2) A person—
  - (a) responsible for the production, storage, discharge or deposit of any waste;
  - (b) engaged in any trade;
  - (c) owning or occupying any premises,

shall not cause or permit waste declared under subsection (1) to be directly discharged into any sewer, sewer connection, building sewer or connected fittings except in accordance with a trade waste agreement.

**69. Trade waste agreements.**

(1) A sewerage authority may enter into a trade waste agreement with any person for the discharge of waste into a sewer or the storage or treatment of waste by the sewerage authority, on terms and in a manner and for a period that the sewerage authority may decide or as may be prescribed.

(2) Unless the sewerage authority is of the opinion that the concentration of the waste at the point of discharge from land occupied by that person will not—

- (a) adversely affect—
  - (i) the life, health or safety of any person;
  - (ii) the works of the authority;
  - (iii) any sewerage treatment process employed by the authority;or
- (b) after treatment by the authority, affect—
  - (i) the life, health or safety of any person; or
  - (ii) any part of the environment,

any trade waste agreement made under subsection (1) shall include a condition requiring the treatment of waste before it is discharged.

(3) A trade agreement may be amended by the parties to the agreement.

(4) A trade waste consent may be amended by notice in writing given to the occupier by the sewerage authority.

(5) A trade waste agreement or a trade waste consent may be terminated in the circumstances and in a manner that may be provided by regulations or in the trade waste agreement or trade waste consent.

#### DIVISION 11—STANDARDS OF WORKMANSHIP.

### **70. Codes of workmanship.**

(1) The Minister shall prescribe codes of workmanship in respect of—

- (a) works of water supply, sewerage or waste treatment to be constructed under this Part of the Act;
- (b) private sewerage installations;
- (c) plumbing or drainage relating to water supply or sewerage to be executed on any land.

(2) A code of workmanship may include matters concerning the design, construction, alteration, maintenance or repair of works, including the types of materials, fittings or appliances which may be used in works or any other thing connected thereto.

(3) An authority may require that all or any part of the works referred to in a code of workmanship—

- (a) may only be executed by, or under the direct supervision of, a person holding the prescribed qualifications;
- (b) may only be executed after giving the authority notice that may be prescribed;
- (c) may only be executed after obtaining the approval of the authority in the prescribed manner;
- (d) may only be executed under the supervision and in the presence of an authorised officer and according to his or her direction;
- (e) be inspected and approved by an authorised person before the work is used.

(4) Any person who fails to comply with, or causes or allows another

person to fail to comply with, any lawful direction issued by an authorised person under this division commits an offence.

**71. Power to conduct training courses for plumbers and drainers.**

The director may, in association with any other body—

- (a) organise training courses for plumbers and drainers or other operators;
- (b) conduct examinations in relation to plumbing and draining;
- (c) award certificates to persons who have attended training courses or passed examinations held under this section.

DIVISION 12—GENERAL POWERS OF AUTHORITIES.

**72. Execution of works on request.**

- (1) The owner of any land which cannot be—
  - (a) supplied by water from any existing water supply works; or
  - (b) connected to any existing sewerage works,

under this Part of the Act, may apply to the appropriate authority in writing for the extension of that existing works to extend services to that land.

(2) The authority may, at the cost of the owner, extend or arrange for the extension of existing works in order to serve that land.

**73. Notice to repair.**

(1) An authority may, by notice in writing to the owner of land, require the owner to repair, within the time specified in the notice, any works connecting that land to the works of the authority, or to do any thing necessary for the service provided to the land by the authority.

(2) If land is connected to the works of an authority by a combined connection, a notice to repair may be served on any or all of the owners of that land.

(3) Where the owner of land served by a notice fails to comply with the notice within the time specified, or any longer period allowed by an authority, the authority may carry out the necessary repairs and recover its reasonable costs from each owner on whom the notice was served under section 56.

**74. Notice of contravention.**

(1) An authority may, by notice in writing to a person who contravenes—

- (a) a provision of this Part of the Act;
  - (b) a requirement made by the authority under this Part of the Act; or
  - (c) a term of any agreement for services under this Part of the Act,
- require that person, or the owner of the land in relation to which the contravention occurs, to take specified action within the time specified in the notice or any longer time allowed by the authority to remedy the contravention.

(2) A person on whom a notice of contravention is served shall make sure that the notice is complied with within the time specified, or any longer time allowed by the authority.

(3) If a notice of contravention is not complied with within the time specified or any longer time allowed by the authority, the authority may—

- (a) carry out the required works and take any other action necessary to remedy the contravention, and recover its reasonable costs from the person on whom the notice was served or under section 56;
- (b) remove or disconnect any service to the land in relation to which the contravention occurs, and recover its reasonable costs from the person on whom the notice was served or under section 54;
- (c) apply to court for an injunction restraining the person on whom the notice was served from contravening the notice.

**75. Power to enter land for reading meter, etc.**

(1) An authorised person may enter land for the purpose of—

- (a) reading, removing or repairing a meter;
- (b) inspecting any works, installations or appliances or taking any samples or making tests to find out whether this Part of the Act is being complied with.

(2) An authorised person may, after an authority has given seven days' notice in writing to the occupier, enter any land and carry out on that land works that the authority is empowered to carry out.



- (3) An authority may not give the notice required under subsection (2)—
- (a) if the occupier consents to the entry and the carrying out of the works;
  - (b) in an emergency; or
  - (c) if the purpose of entry is to prevent the waste, misuse or pollution of any water or to enforce this Act.

(4) An authorised person shall not enter land which is used primarily for residential purposes under this section, except between 6 a.m. and 6 p.m., unless he or she has reasonable grounds to believe that—

- (a) water restrictions in force are not being complied with by the occupier;
- (b) water is being wasted, misused or polluted; or
- (c) an offence under this Act is being committed.

#### **76. Powers to undertake works.**

Subject to this Act, the action plan, or the terms of any water permit or other permit which may be required under Part II of this Act, an authority may—

- (a) enter upon any land, take its levels and set it out as the authority thinks necessary, dig, trench and break up the soil, and use or remove any material dug from the land;
- (b) sink such boreholes and construct, use or operate reservoirs, waterworks, cisterns, tanks, aqueducts, sewers, sluices, pipes, culverts, drains, machinery and other works relevant to supply water, sewerage or waste treatment; and construct or use buildings as the authority thinks fit;
- (c) divert, extract and impound the water from any watercourse or borehole or alter the course of any watercourse;
- (d) blast with explosives or otherwise break up any rock, clay, stone, soil or other geological formation or artificial structure in any manner and remove or use all or any material obtained;
- (e) construct or operate any works for the conservation or supply of water, the provision of sewerage or the treatment of any water or waste.

#### **77. Land and works to vest in authority.**

(1) Land and works acquired or constructed by or on behalf of an authority—

- (a) prior to the commencement of this Act; or
- (b) under this Part of the Act,

are owned by that authority to the extent that is prescribed or directed by the Minister under section 48.

(2) Any main, water connection, sewer or sewer connection provided at the direction of, but not by an authority, belongs to the authority.

(3) Water taken by a water authority in accordance with the water resources provisions in Part II of this Act and contained for the time being in any works controlled by that authority belongs to the authority.

(4) Any waste for the time being contained in any works controlled by a sewerage authority belongs to that authority, and the authority—

- (a) shall comply with any requirement of Part II of this Act in relation to the treatment or disposition of that waste;
- (b) is liable to any penalty prescribed under section 104 for any offence relating to pollution.

(5) Where at the commencement of this Act—

- (a) any main, water connection or related works (other than a private water pipe) which are part of a water supply operated by a water authority;
- (b) any sewer, sewer connection or related works (other than a building sewer) which are part of a sewerage system operated by a sewerage authority,

are on private land, those works shall be taken to have been installed with the consent of the owner and occupier for the time being of that land at the time they were installed and pursuant to a sufficient interest in the land created by that owner or occupier in favour of the authority to enable it to enter the land in order to repair, maintain, alter, extend, replace or remove works in perpetuity.

(6) Any main, water connection, sewer or sewer connection or related work attached to private land by, for, on behalf of or at the direction of an authority does not become part of the land for the purpose of giving the owner or occupier of land a proprietary interest in it.

(7) Works constructed by an authority on behalf of another person do not belong to the authority.

**78. Abandonment of works.**

An authority shall not abandon any of its works without the Minister's approval.

**79. Power to stop traffic.**

(1) An authority may temporarily close all or any part of a road to traffic if it is necessary to carry out works on or adjacent to the road.

- (2) An authority shall give notice to the Uganda Police Force—
  - (a) in writing at least three days before the closure;
  - (b) in an emergency, as soon as possible after the closure occurs.

**80. Works on roads.**

(1) Where it is necessary for the construction or operation of any works, an authority may break up the surface of any road and open or break up any works under the road.

- (2) An authority shall—
  - (a) while the surface is broken up, take appropriate safety precautions to minimise the possibility of injury to members of the public;
  - (b) remove from the site all rubbish resulting from the works;
  - (c) do as little damage as possible; and
  - (d) carry out the work as quickly and efficiently as practicable.
- (3) An authority shall—
  - (a) return the site, so far as possible, to the state it was in before the work was started; and
  - (b) pay compensation for any damage which may have been done to the works of any public authority in the exercise of the powers under this section.

(4) The obligations created under subsection (3) shall not apply to any structures or works of any type erected by a private person in or on a public road or adjacent road reserve.

### **81. Protected zones.**

Subject to section 91, an authority may—

- (a) establish a protected zone on land adjacent to—
  - (i) any water, borehole, treatment or other works forming part of a water supply or from which a water supply is drawn;
  - or
  - (ii) any sewer, sewerage treatment works or outfall;
- (b) erect and maintain fences on or enclose the land under the protected zone; and
- (c) prohibit activities within the protected zone, as it sees fit.

### **82. Restriction or discontinuation of water supply.**

(1) A water authority may, without prejudice to any other remedy it may have, restrict the quantity of water or discontinue the supply of water to any person if—

- (a) the water authority is unable to supply the quantity of water which would otherwise be supplied to the person;
- (b) the water authority believes that the reduction or discontinuance is necessary to avoid future water shortages;
- (c) any private water pipe or other works on land of that person for the supply of water or any connected fittings—
  - (i) are, in the opinion of the water authority, inadequate or not properly constructed; or
  - (ii) do not comply with the regulations or code of workmanship;
- (d) that person contravenes this Act through waste, misuse or pollution of water supplied to that person by the water authority or through the taking or use of water;
- (e) that person contravenes any water restrictions in force;
- (f) that person refuses entry to an authorised person exercising powers conferred under this Act to stop the committing of an offence under this Act.

(2) If a water authority restricts or discontinues the supply of water to a person in accordance with subsection (1), that person shall have no claim against the authority.

(3) Where a water authority restricts or discontinues the supply of water to a person under subsection (1)(c), (d), (e) or (f), it may charge a fee

for restoring the supply.

**83. Power to enter land and take action.**

- (1) An authority may enter and remain upon land and may—
  - (a) take measurements and make estimates on the land as it thinks necessary or desirable;
  - (b) construct or remove works as it thinks necessary or desirable for the exercise of its functions;
  - (c) collect and take samples it may think necessary or desirable;
  - (d) make investigations, inquiries or inspections as it thinks necessary or desirable to determine whether the provisions of this Act are being complied with.
- (2) Section 15 shall apply to any entry of land under this section.
- (3) A water authority shall be liable for any nuisance or other injury done to any land other than the land entered under this Act.

**84. Power to acquire land.**

- (1) The Minister or the authority, if authorised by the Minister, may acquire an interest in land and any structures on the land for purposes of this Act.
- (2) An acquisition under subsection (1)—
  - (a) may be by agreement or through lawful compulsory acquisition of land;
  - (b) shall be deemed to be for a public purpose within the meaning of article 26 of the Constitution.
- (3) Compensation payable to a person under this section shall be determined under the Land Acquisition Act and section 91 of this Act.

**85. Power to deal with land.**

An authority may, in the performance of its functions—

- (a) exchange any land for any other land;
- (b) grant leases, licences or easements over its land;
- (c) mortgage its land; or
- (d) sell any of its land.

**86. Notice of intention to affect works.**

Where an authority intends to do anything that will affect the works of another public authority, it shall give notice to that other public authority—

- (a) in normal circumstances, of at least fourteen days before the work is effected; or
- (b) in an emergency, as soon as is practicable before or after the work is affected.

DIVISION 13—COMMERCIAL POWERS AND FINANCIAL PROVISIONS.

**87. Application of sections 88, 89 and 90.**

The Minister may authorise an authority to exercise powers under sections 88, 89 and 90 on such conditions as he or she may see fit.

**88. Authority's contracts.**

(1) Subject to section 87 and for the better functioning of the authority, the authority may enter into contract with any person or public authority for the provision of equipment, facilities, expertise, services or staff or the joint use of the above.

(2) An authority may, at the request of any person or public authority and at the expense of that person or public authority—

- (a) repair or alter any works;
- (b) carry out any survey or investigation; or
- (c) do anything else connected with, or incidental to, the functions of the water authority.

**89. Authority's commercial ventures.**

An authority may, subject to section 87—

- (a) participate in the formation of a corporation, trust, partnership or other body;
- (b) subscribe for, or otherwise acquire, hold and dispose of, shares in debentures or other securities of a corporation;
- (c) become a member of a company limited by guarantee;
- (d) subscribe for, or otherwise acquire, hold and dispose of, units in a trust;

- (e) acquire, hold and dispose of an interest in a partnership or other body; and
- (f) enter into a partnership or arrangement for sharing of profits, union of interest, cooperation, joint venture, reciprocal concession or other arrangement, with any person or body carrying on or engaged in any business or transaction (whether within or outside Uganda) to the benefit of the authority.

**90. Industrial property.**

An authority may, subject to section 87—

- (a) apply for, obtain and hold, whether on its own behalf or jointly with any other person, industrial property rights;
- (b) assign or grant licences in respect of those industrial property rights, with or without charge; and
- (c) enter into agreements and arrangements for the commercial exploitation of industrial property rights.

**91. Compensation to be paid.**

(1) If damage is caused to land in the exercise of powers conferred on an authority by this Act, the authority shall, if required, compensate all parties interested in the land for all damage sustained by them in consequence of the exercise of those powers, subject to this Act.

(2) For purposes of this section, “damage to land” means loss suffered as a result of—

- (a) deprivation of the possession of the surface of any land;
- (b) damage to the surface of land and to any improvements, crops or trees on the land;
- (c) damage to stock; and
- (d) all consequential damage.

(3) In calculating compensation under this section—

- (a) for damage to land payable under this section;
- (b) in respect of the compulsory acquisition of any interest in land for the purposes of this Act,

no amount will be payable to the owner of any interest in, or the occupier of, any land in respect of the taking or use of water on, adjacent to or beneath that land by an authority pursuant to a water permit granted under Part II of this Act.

(4) Compensation shall not be paid under this section unless a written claim for compensation has been lodged with the responsible authority within six months of either the claimant learning of the act giving rise to the claim or the completion of any works in respect of which compensation is sought, whichever is later.

- (5) A claim for compensation shall set out—
- (a) the claimant's name and address;
  - (b) a description of the land in respect of which the claim is made;
  - (c) the claimant's interest in the land;
  - (d) the nature and extent of the interest of any other person in the land;
  - (e) the damage caused to the land;
  - (f) the particulars of any other damage; and
  - (g) the total amount of the claim.

- (6) An award of compensation may take the form of—
- (a) a payment of money;
  - (b) the provision of compensation water to land on terms the authority may determine;
  - (c) the remission of rates, charges or fees payable to the authority;
  - (d) any other type of award which the authority considers appropriate.

(7) An authority shall notify the claimant of its decision on a claim made under subsection (5) as soon as is practicable; and any person aggrieved by the decision of an authority may, within thirty days from receiving the notice of the decision, appeal to the Minister.

(8) The Minister shall consider an appeal made under subsection (7) within thirty days of receiving the notice of appeal and may grant the appeal and fix compensation as he or she may consider reasonable in the circumstances.

(9) An authority shall pay to the applicant all the difference, if any, between the amount already paid by it and the amount fixed under the subsection (8) award within seven days of getting notice of the Minister's decision.



**92. Cost of relocation or reconstruction.**

(1) Where it becomes necessary to relocate or reconstruct works vested in an authority as a consequence of the execution of work by any other public authority, the costs of the relocation or reconstruction shall be paid to the authority by that public authority less such sum, if any, of any improvement to the works of the authority.

(2) An authority may, at the request of a person with an interest in the land upon which works vested in the authority are located, agree to relocate those works at the cost of that person and upon such terms as the authority may determine.

**93. Compensation to the authority.**

If damage occurs to any works of an authority as a consequence of the commission of an offence under this Act, the court may, in addition to any penalty, order the offender to compensate the authority as the court may think fit.

**94. Rates, charges and fees.**

(1) An authority may, by regulations and with the approval of the Minister—

- (a) fix rates with respect to land within the authority's area;
- (b) fix charges, fees or deposits for commodities, services or facilities provided or to be provided by the authority;
- (c) fix penalties for failure to pay any amount due to the authority when it falls due and payable and rates or interest on outstanding amounts due to the authority.

(2) An authority may levy and demand rates, and demand payments of charges, fees, deposits, interests or penalties fixed under this section.

(3) Charges for water supplied by a water authority may, at the option of the water authority—

- (a) be assessed on the quantity of water supplied as registered by a meter installed on the consumer's land by the water authority;
- (b) be assessed in some other manner approved by the Minister; or
- (c) be otherwise arrived at by agreement with the consumer.

(4) A water authority may, with the approval of the Minister, establish—

- (a) charges to be paid per unit of quantity for water supplied by metered or computed quantity;
- (b) minimum charges to be paid for water supplied;
- (c) rent to be paid for a meter installed by the water authority; and
- (d) the time within which charges and rent shall be paid, and the terms and conditions of payment, including the payment of deposits,

by consumers generally or by any class of consumers.

#### **95. Recovery of outstanding rates, etc.**

(1) A rate, charge or fee levied or made under this Part of the Act and any interest or penalty payable on it is a charge against the land in respect of which the rate, charge or fee is levied or made.

(2) Without prejudice to any other remedy available to a water authority, where any rate, charge, fee, or any interest or penalty payable in respect of—

- (a) any water supplied by the water authority; or
- (b) any sewerage services relating to land to which water is supplied by the water authority,

is outstanding for thirty days from the day on which it became due, the water authority may—

- (c) restrict or disconnect the supply of water to the land in question;
- (d) demand the outstanding amount from the person and—
  - (i) if the amount demanded is not paid in full within seven days from the date of that demand, may recover any part of the amount which has not been paid by distress and sale of the goods of the person; or
  - (ii) by serving on any occupier paying rent in respect of the land a notice setting out the outstanding amount and requiring the occupier, from the date that notice is served, to pay any rent or other amount he or she would otherwise be obliged by law to pay to that person, direct to the authority until the outstanding amount, any interest thereon, any penalty imposed or any reconnection fee have been recovered in full by the authority.

(3) Any amount paid to the authority under subsection (2)(d)(ii) shall,

for all purposes, be deemed to have been paid to the owner, and the receipt of the authority shall be a sufficient discharge for the amount which would otherwise be payable to the owner by the occupier.

(4) Section 84(2) and (3) shall apply to the restriction or discontinuation of water supply under this section.

#### DIVISION 14—MISCELLANEOUS FOR PART III.

### **96. Supply outside water supply areas.**

(1) The Minister may authorise a water authority to execute works and to supply water outside its water supply area on terms prescribed by the Minister, including—

- (a) the charge to be paid for water supplied; and
- (b) the conditions on which supply is authorised.

(2) Except in the case of water supplied in bulk to a public authority, a charge prescribed under this section shall not be less than for a similar supply within the water supply area.

### **97. Supply by certain persons prohibited.**

No person within a water supply area and no person supplied with water under this Act may supply water to any other person or cause or permit any other person to take water except—

- (a) for use or consumption on those premises;
- (b) for the purpose of extinguishing a fire; or
- (c) with the approval of the water authority for that water supply area.

### **98. Unlawful taking of water.**

(1) A person shall not take or use, or cause or allow or attempt to cause or allow any person to take or use, water from works vested in a water authority except as provided under this Act.

- (2) A person shall not—
  - (a) take, or cause or allow or attempt to cause or allow any person to take, water from a standpipe;
  - (b) use, or cause or allow any person to use, water from a standpipe,

except for human and household consumption or such other purposes as may be prescribed by the responsible authority from time to time.

(3) In any proceedings for an offence under this section, proof of the existence of a structure, obstruction or device on the land capable of allowing water to be taken or used is prima facie evidence that water was taken or used at the time that structure, obstruction or device is proved to have existed.

#### **99. Interference with works.**

(1) A person shall not cause or allow or attempt to cause or allow any works acquired, constructed or operated under this Act to be interrupted, interfered with, altered, moved, damaged or destroyed, except as provided for in this Act.

(2) A person who attaches or causes or allows any person to attach any hose, pipe, fitting or other device to a standpipe vested in an authority commits an offence.

(3) In any proceedings for an offence under this section, proof of the existence of any structure, obstruction or device on land capable of causing an interruption, interference, alteration, movement, damage or destruction is prima facie evidence that an interruption, interference, alteration, movement, damage or destruction occurred at the time that structure, obstruction or device is proved to have existed.

(4) An authority may confiscate any structure, obstruction or device referred to under subsection (3).

#### **100. Tampering with works.**

- (1) A person shall not—
  - (a) uncover or expose any main, pipe or other underground works vested in a water authority;
  - (b) wilfully or negligently break, damage, injure, open, alter or obstruct any main, pipe, meter or other works vested in a water authority; or
  - (c) alter the index of any meter or prevent or impend any meter from duly registering the quantity of water supplied, except with the permission of the responsible water authority.

- (2) Where any person is convicted of an offence under this section, the court may, in addition to imposing the penalty, order that person—
- (a) to meet the cost of making good any damage caused;
  - (b) to pay any other charges which by virtue of the offence it may assess the water authority to have lost,
- as the case may require.

**101. Structures not to be put on land, etc.**

(1) A person shall not, without the consent of an authority, cause or allow—

- (a) a structure to be built or filling to be placed on land in which the authority has a proprietary interest;
- (b) a structure to be built or filling to be placed within four meters of any works of an authority;
- (c) any soil, rock or other matter that supports, protects or covers any works of an authority to be removed.

(2) An application for an authority's consent under subsection (1) shall be made in the manner prescribed by the authority and shall be accompanied by plans and other information that the authority may require.

(3) A person who, with the consent of an authority, causes or allows anything referred to in subsection (1) to be done shall make sure that it is done in accordance with any conditions which the authority gave with the consent, if any.

(4) If a structure has been built or filling placed on land contrary to this section, an authority may, by notice in writing to the owner or occupier of the land, require the owner or occupier to alter, remove or relocate the structure or filling within the time specified in the notice, whether or not the structure was built or the filling placed by or on behalf of the owner or occupier.

(5) If the person to whom a notice is given under subsection (4) does not comply with the notice within the time specified, or any longer time allowed by the authority, the authority may—

- (a) carry out the requirements of the notice; and
- (b) recover from that person its reasonable costs of carrying out paragraph (a) of this subsection; or
- (c) exercise the powers conferred on it by section 95.

(6) Consent given by an authority under subsection (3) shall be binding upon the applicant, his or her heirs, successors and assignees and the owner or occupier for the time being of the land, whether or not that person has notice of the consent or the conditions of the consent.

(7) A person who contravenes this section or causes or allows any person to contravene this section or any condition attached to any approval of an authority commits an offence.

### **102. Trees, crops and shrubs.**

(1) Where trees, crops or shrubs are located within four metres of the centre line of any sewer, pipe or other works vested in an authority and the authority requires access to those works, an authorised officer may, without notice to the owner or occupier of the land upon which the trees, crops or shrubs are located, cause them to be removed.

(2) Where a sewer, pipe or other works vested in an authority is damaged or blocked by any tree or shrub or the roots, an authorised officer may, by notice in writing to the owner or occupier, require the owner or occupier of the land on which the tree or shrub is located to—

- (a) remove the tree or shrub or roots thereof;
- (b) make good any damage or blockage to the works; and
- (c) restore the service to the land,

in a manner and within the time specified in the notice.

(3) If the person to whom a notice is given fails to comply with the notice within the time specified, or any longer time allowed by the authorised officer, the authorised officer may—

- (a) carry out the requirement of the notice; and
- (b) recover from that person any costs incurred in the carrying out requirements of the notice.

(4) A person contravening this section commits an offence.

## **PART IV—GENERAL AND MISCELLANEOUS.**

### **103. Obstruction of an officer.**

(1) No person shall assault, threaten, resist, obstruct, hinder, delay or

allow any other person to do the above to an authorised officer or person in the performance of his or her powers, functions or duties under this Act.

(2) Where a person is convicted of an offence under this section, the court may, in addition to any penalty, order that person to pay compensation sufficient to cover any damage which the authorised officer or other person might have suffered as a result of the commission of the offence, and the sum awarded may be recovered in the same manner as the penalty.

#### **104. Offences and penalties.**

(1) A person who contravenes any provision for which no offence is specified commits an offence and is liable on conviction to imprisonment for a term of not less than three months and not more than ten years or to a fine of not less than one hundred thousand shillings and not more than six million shillings or both.

(2) A person who commits an offence under any other section for which no penalty is specified is liable on conviction to imprisonment for a term of not less than twelve months and not more than ten years or to a fine of not less than one hundred and twenty thousand shillings and not more than ten million shillings or to both and is liable—

- (a) for a continuing offence, to a fine of not less than one hundred and eighty thousand shillings and not more than eighteen million shillings for each day on which the offence is continued;
- (b) for a subsequent offence, to imprisonment for a term of not less than thirty-six months or to a fine of not less than three hundred and sixty thousand shillings and not more than thirty-six million shillings or both.

(3) In this section, a “continuing offence” starts when the offence continues—

- (a) after the date on which the court finds that the offence was committed; or
- (b) where there is no court proceeding, after the complaint alleging the commission of the offence has been issued.

#### **105. Inspection of authorities.**

(1) The Minister shall, from time to time, appoint an inspector to investigate the affairs of each authority and to report to the Minister in such

manner as he or she directs.

(2) An authority, its officers, servants and agents shall, if required by an inspector, provide the inspector with—

- (a) all information in its possession;
- (b) the books of account, records, other documents and other sources of information available to the authority.

(3) An inspector, and advisers or assistants as he or she considers necessary, may enter any land at any reasonable time for purposes of carrying out an investigation under this section.

(4) A person shall not—

- (a) assault, threaten, resist, obstruct, hinder or delay, or use foul, abusive or insulting language towards or at any inspector, his or her advisers or assistants in the exercise of an inspector's powers under this section; or
- (b) falsely hold himself or herself out to be an inspector.

#### **106. Protection of authorities and officers.**

(1) Except as expressly provided in this Act, the Minister, an authority, its servants or agents or any authorised person shall not be liable for any loss, injury or damage resulting from any act done or omission made in good faith in the exercising of any powers or functions or in discharging of any duty under this Act.

(2) Without in any way limiting the generality of subsection (1), that subsection shall apply to—

- (a) any failure to make available or to continue to make available any service under this Act;
- (b) any action taken in connection with the beneficial treatment of water for human consumption, including disinfection or fluoridation;
- (c) any data or information supplied;
- (d) any approval or permission given;
- (e) any inspection conducted; or
- (f) any requirement imposed or direction given,

by the Minister, an authority, its servants or agents, or an authorised person.

(3) Nothing in subsection (1) protects an authority from any liability



it might otherwise have for supplying water which does not comply with any water quality or other standards prescribed under this Act.

### **107. Regulations.**

(1) The Minister may make regulations not inconsistent with this Act generally to give effect to the purposes and provisions of this Act.

(2) Without limiting the generality of subsection (1), regulations may—

- (a) prescribe anything which may be prescribed under this Act;
- (b) establish guidelines for the exercise of the functions or powers of the director, any authorised person or public authority under this Act;
- (c) provide for the preparation, revision and approval of the water action plan;
- (d) provide for the membership, appointment, functions, powers and proceedings of the Water Policy Committee;
- (e) provide for the registration of existing uses of water and structures;
- (f) provide for means of exempting classes of uses, uses and the structures from some or all the provisions of Part II of this Act;
- (g) provide for the decentralisation or delegation of functions under this Act;
- (h) provide for the duration, granting, amending, renewing, suspending, varying or cancelling of permits;
- (i) prescribe the registers and records to be kept under this Act and the manner in which they are to be kept;
- (j) prescribe the forms to be used and fees to be paid in respect of any matter required or permitted to be done under this Act;
- (k) provide for the advertisement of, and the giving of notice of, applications made under this Act;
- (l) provide for and regulate the making of objections and the time in which objections must be made;
- (m) regulate the conduct of appeals to the Minister;
- (n) prescribe standard conditions to be attached to water permits, waste discharge permits or other permits or different classes of any such permits;
- (o) classify water by reference to its quantity, quality or possible use;
- (p) prescribe standards or criteria for the design, construction or operation of works and means for enforcing the same;

- (q) fix rates, charges, fees, deposits, penalties and interest payable on outstanding amounts paid;
- (r) provide for the prevention of waste, misuse or pollution of water;
- (s) provide standards for the quality of water supplied for domestic use;
- (t) impose penalties not exceeding penalties imposed under section 104(2), for contravening regulations made under this section.

(3) The Minister shall, within three weeks after the publication of regulations made under subsection (1)(q) or under section 94 or as soon as it resumes sitting, lay the regulations before Parliament for confirmation; and if the regulations are not rejected within one month of their being tabled, they will be deemed to have been confirmed.

**History:** Statute 9/1995; S.I. 24/1997.

### **Cross References**

Constitution of 1995.

Land Acquisition Act, Cap. 226.

Land Reform Decree, Decree 3/1975.

Local Governments Act, Cap. 243.

Mining Act, Cap. 148.

National Environment Act, Cap. 153.

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