

CAYMAN ISLANDS



WATER AUTHORITY ACT

(2022 Revision)

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CAYMAN ISLANDS



WATER AUTHORITY ACT

(2022 Revision)

PART I-Introduction

Short title

1. This Act may be cited as the *Water Authority Act (2022 Revision)*.

Definitions and interpretation

2. (1) In this Act —

“**administrative determination**” has the meaning assigned to that expression by section 2(1) of the *Utility Regulation and Competition Act (2021 Revision)*;

“**Authority**” means the Water Authority established under section 3;

“**beneficial use**” means the use of water in such a quantity as is necessary for economic and efficient utilisation, for a purpose and in a manner which is consistent with the public interest;

“**building**” includes any structure or erection of a permanent or semi-permanent nature and any part of a building as so defined, but does not include plant or machinery comprised in a building;

“**canals**” means any channel works which provide sea water direct access to inland areas which would not normally be in direct contact with the sea;

“**capital investment plan**” means those additions to its assets that a service provider intends to make, that, when added, will form part of its rate base as approved by the Office;

“**commercial use**” means the sale or transport of water or the use of water on any premises used for carrying on any trade or business including hotels, restaurants, shops and offices or any other use of water for other than domestic or municipal use;

“**concession**” means an instrument by which the Cabinet grants a right or privilege enabling a person —

- (a) to produce or supply water, or both, under the *Water (Production and Supply) Act (2018 Revision)*; or
- (b) to collect, convey and treat wastewater under the *Wastewater Collection and Treatment Act (2019 Revision)*;

“**concessionaire**” means a person to whom a concession has been granted;

“**Director**” means the Director of the Authority or any person acting on the Director’s authority;

“**domestic use**” means the use of water for washing, drinking, flushing closets, private gardening and the other usual household purposes, on any premises which are used solely for private residential purposes;

“**freshwater**” means water with a total dissolved solid content of five thousand parts per million or less;

“**ground water**” means —

- (a) underground water; and
- (b) water in a pond where the removal of water from the pond will occasion the seepage of underground water into the pond, and includes all water made available by means of works;

“**groundwater lens**” means an underground source of fresh water;

“**licence**” means a permit or other enabling instrument issued by the Authority under this Act;

“**municipal use**” means the utilisation of water for supplying the water requirements of the community;

“**non-potable water**” means water which may or may not be potable water but can be beneficially used, and does not include process water, wastewater or trade effluent;

“**Office**” means the Utility Regulation and Competition Office established under section 4 of the *Utility Regulation and Competition Act (2021 Revision)*;

“**pond**” means any place or excavation containing water other than sea water;

“**potable water**” means water which is intended for consumption by humans, that is, water which has no impurities present in amounts sufficient to cause disease or harmful physiological effects, and the bacteriological and chemical and aesthetic quality parameters of which comply with values established under



section 4 of the *Public Health Act (2021 Revision)* or, if none have been established, standards established by the Authority;

“**premises**” means messuages, buildings, land, easements or hereditaments of any tenure, whether open or enclosed, whether built on or not, whether public or private and whether maintained or not under statutory authority, and includes any place or structure, or any part thereof, used or intended to be used for human habitation, or for employment or any other purpose whatsoever;

“**process water**” means water used in an industrial process, such as water used for rinsing, cooling, chemical reactions, and gas scrubbing, and which may require specific treatment to produce the quality of water needed for the process but does not include water that will be used in the actual product manufactured;

“**public wastewater system**” refers to the conveyance of wastewater and trade effluents away from premises via a system owned or operated by the Authority;

“**public water supply system**” refers to the conveyance of water into premises via a system owned or operated by the Authority;

“**service provider**” means the Authority or any concessionaire that has been issued with a licence by the Office to provide water or wastewater services;

“**territorial waters**” means the waters of the sea within the limits of territorial jurisdiction of the Islands;

“**trade effluent**” means any liquid either with or without particles or matter in suspension therein, which is wholly or in part produced in the course of any trade or industry carried on at trade premises but does not include domestic wastewater, but includes a reference to all waste in a liquid, solid or gaseous state;

“**underground water**” means water stored below the surface of the ground in the natural strata thereof and not apparent on the surface on the ground;

“**wastewater**” means any waste substance, liquid or solid, associated with human habitation, or which contains or may be contaminated with human or animal excrement or offal, or trade effluent, or both, from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface runoff or leachate that may be present;

“**wastewater system**” means all works related to the collection, conveyance, treatment and disposal of wastewater;

“**water**” means potable water and non-potable water;

“**water resources**” means canals, ground water, groundwater lenses, ponds, territorial waters and underground water;

“**water resources**” includes —

- (a) water flowing or situated upon the surface of any land;

- (b) water flowing or contained in any natural course for water or any lake or spring, whether or not it has been altered or artificially improved;
- (c) estuarine or coastal water;
- (d) groundwater, including groundwater lens; and
- (e) any watercourse;

“**well**” includes any natural well, borehole, adit, tunnel, gallery or other excavation constructed or used for the abstraction of ground water or for the introduction of fluids directly into ground water; and

“**works**” includes wells, desalination plants, pumping installations, pipelines, reservoirs, tanks, ponds, valves, building, machinery, metering devices and other apparatus constructed for or used in connection with the abstraction or storage of ground water, the conveyance of water or wastewater, the processing of water, the treatment of wastewater, the use of ground water for any purpose or the introduction of fluids directly into ground water whether by means of a well or pipe or otherwise.

- (2) For the purpose of this Act, where land is subject to a tenancy at will, to a tenancy for a fixed period of less than one year or to a periodic tenancy from month to month or other period of less than one year, the person entitled to the reversion expectant upon the termination of any such tenancy shall be deemed to be the person entitled to the possession of the land.

PART II – Establishment, functions and duties of the Water Authority

Establishment and constitution of Water Authority

- 3. (1) There is established a body corporate called the Water Authority which shall, subject to any policy directives issued to it by the Cabinet, exercise such functions through the Islands as are assigned to it by this Act.
- (2) The affairs of the Authority shall be managed by a Board consisting of —
 - (a) a Chairperson appointed by the Cabinet; and
 - (b) not fewer than eight and not more than ten other members appointed by the Cabinet for a period not exceeding two years, and three other public officers as defined in the *Public Service Management Act (2018 Revision)*.
- (2A) The Director shall be one of the three public officers appointed under subsection (2).
- (2B) The public officers under subsection (2) shall not be entitled to vote.



- (3) No member of the Authority shall be personally liable for any act or default of the Authority done or omitted to be done in good faith in the course of the operations of the Authority.
- (4) Subject to this section, the constitution and procedure of the Authority shall be in accordance with the Schedule.
- (5) The Authority shall have perpetual succession and a common seal, power to enter into contracts and to sue and be sued in its corporate name and shall have power to acquire and dispose of all kinds of property moveable or immovable and to do and perform such acts and things as may be allowed under this Act and the seal shall be authenticated by the Chairperson and one of the members authorised by the Authority in that behalf; and documents not required by law to be under seal may be signed by the Chairperson or the secretary.

Appointment of staff

4. (1) The Board shall appoint the Director to be the Chief Executive Officer of the Authority after consultation with the responsible Minister or Official Member, and shall, in the exercise of the Board's own deliberate judgment and subject to such conditions as the Board may impose, approve of the secondment of such public officers for service with the Authority as appear necessary for the proper exercise of its functions.
- (2) A public officer seconded under subsection (1) shall, in relation to salary, pension, gratuity and the like and to other rights and to discipline, be treated as if that public officer were not so seconded.
- (3) The Director shall be secretary to the Authority, present at all meetings and responsible for the minutes of the business transacted.

Duties of Authority

5. (1) The Authority shall formulate, review and revise a water resources development plan for the Islands.
- (2) It is the duty of the Authority to secure consistency and continuity in the framing and execution of a comprehensive policy approved by the Cabinet with respect to the development, augmentation, conservation and best use of the water resources in the Islands in accordance with the water resources development plan referred to in subsection (1).
- (3) Without prejudice to subsections (1) and (2), it is the duty of the Authority —
 - (a) to establish and keep an inventory of all water resources in the Islands, and to establish and maintain a central bank of water related data;
 - (b) to issue, record and administer licences and permits and fees in respect thereof;

- (c) to protect the groundwater lenses from depletion and contamination, to monitor their condition and to undertake artificial recharge programmes;
- (d) to advise the Cabinet on appropriate policies for the development, conservation, augmentation and best use of the water resources of the Islands;
- (e) to advise the Cabinet on appropriate policies and methods adopted for the treatment and disposal of wastewater in the Islands;
- (f) to inspect any work carried out by government departments, public authorities, individual users and other agencies in respect to wastewater disposal and the development, conservation and use of water resources;
- (g) to establish criteria, methods and standards for data collection, project planning and design, and feasibility evaluation;
- (h) to undertake or promote studies, research, educational and training programmes on water resources and supply and wastewater management;
- (i) to advise the Cabinet on subsidiary legislation for the implementation of this Act, and on legislation affecting the conservation, development and use of water resources; and
- (j) in general, to advise the Cabinet on any national or international plan or project, as well as any international organisation with which the Government may have entered into agreement for the realisation of surveys, projects and studies in the matter of water resources development and conservation and public water supply and wastewater treatment and disposal.

Duty of Authority in regard to water supply and wastewater

6. In addition to the duties listed in section 5, the Authority shall —

- (a) provide a piped supply of water for commercial, domestic and municipal use to any part of the Islands where a general scheme of supply is rational as determined by the Authority and forms part of capital investment plans approved by the Office;
- (b) provide adequate facilities for the drainage and safe disposal of wastewater and effluent where a general wastewater scheme is rational as determined by the Authority and forms part of capital investment plans approved by the Office;
- (c) advise the Cabinet on the issuance of concessions for franchised operations under the *Water (Production and Supply) Act (2018 Revision)* and in accordance with any law for the time being in force relating to wastewater.
- (d) **Repealed** by section 4(b) of the *Water Authority (Amendment) Law, 2017*.



Powers of Authority in regard to water supply and wastewater

7. (1) The Authority shall have all the powers necessary for the carrying out of its duties under sections 5 and 6, including (subject to any concession in force) the sole right to provide a public water supply and public wastewater system in any part of the Islands and in particular, may —
- (a) design, construct, take on lease or purchase by agreement, operate and maintain water and wastewater works and authorise and control the construction, operation and maintenance by any person of such works;
 - (b) purchase or take on lease any property which it deems necessary or expedient for the purpose of constructing, extending or maintaining any water and wastewater works or otherwise carrying out its functions under this Act;
 - (c) abstract water from any part of the Islands for the purpose of providing a public water supply in accordance with section 6 and for so abstracting water enter into such agreements, and construct, maintain and operate such works, as may be necessary;
 - (d) determine or diminish any licence which it deems necessary or expedient for the purpose of providing a public water supply system;
 - (e) require the installation of meters or gauges for measuring water abstracted under the grant of a licence or supplied by the Authority or waste discharged and to works operated by the Authority and levy charges for the provision, installation, maintenance and operation of the same;
 - (f) subject to subsection (3), enter any land, including private roads, to —
 - (i) carry out surveys and investigations including trial drillings and inspection for ground water and wastewater;
 - (ii) execute any works, lay and connect pipes for water and sewers;
 - (iii) demolish any unauthorised water or wastewater works;
 - (iv) effect repairs to the water supply and wastewater systems; and
 - (v) inspect any works which are the subject of a licence or permit under this Act; and
 - (g) collect rates and service fees and deposits in respect of the distribution and supply of water and the disposal of wastewater; and
 - (h) fix charges for any services provided in the course of carrying out the Authority's functions and to demand and recover those charges from any person to whom, or in relation to whose premises, the Authority provides service;
 - (i) **Repealed** by section 5(a)(iv) of the *Water Authority (Amendment) Law, 2017*.

- (2) The Authority shall exercise its powers under paragraph (d) of subsection (1) in the manner provided by section 32.
- (3) In the exercise of its powers under paragraph (f) of subsection (1), the Authority shall give reasonable notice to the person entitled to the possession of the land, and shall pay reasonable compensation for any loss or damage sustained by the person by reason of the carrying out of any work authorised by this section.
- (4) The Authority may exercise its powers to fix charges by reference to such matters, and may adopt such methods and principles for the calculation and imposition of the charges as appear to the Authority to be appropriate but rates and charges for the provision of water supply and wastewater services shall not be fixed or imposed without the prior written approval of the Office.
- (5) **Repealed** by section 5(c) of the *Water Authority (Amendment) Law, 2017*.
- (6) **Repealed** by section 5(c) of the *Water Authority (Amendment) Law, 2017*.
- (7) The Authority shall establish minimum environmental standards for the protection of the environment generally, including standards for the limitation of discharge into the atmosphere, water or land and provisions for compliance with these standards shall be included as licence obligations in licences or administrative determinations issued by the Office under the *Water Sector Regulation Act, 2017* or any other Cayman Islands's Act in force in relation to water or wastewater.
- (8) For the purposes of carrying out its functions under this Act, the Authority shall have power to —
 - (a) call for, from any person, and examine documents, including, but not limited to, financial records;
 - (b) require that any document submitted to the Authority be verified by affidavit; and
 - (c) do anything that is related or incidental to what is specified in paragraphs (a) and (b).
- (9) **Repealed** by S.5(c) of the *Water Authority (Amendment) Law, 2017*.
- (10) **Repealed** by S.5(c) of the *Water Authority (Amendment) Law, 2017*.

Liability of owners for charges

8. (1) Subject to subsections (3) and (4) and except insofar as a provision to the contrary is made by an agreement to which the Authority is a party —
 - (a) the connection of premises to a public water supply system, and any supplies of water provided by the Authority to those premises via a public water supply system, shall be treated for the purposes of this Act (and any regulations made or having effect under this Act) as services provided to the owner for the time being of the premises so connected or supplied; and



- (b) the connection of premises to a public wastewater system, and any collection, treatment and disposal of wastewater drained from those premises via a public wastewater system, shall be treated for the purposes of this Act (and any regulations made or having effect under this Act) as services provided to the owners for the time being of the premises so connected or drained.
- (2) In this section —
- “**owner**”, in relation to any premises, means the person who is registered as the proprietor of the premises under the *Registered Land Act (2018 Revision)*, and, where more than one person is so registered in relation to any premises, “owner” means either or any of those persons;
- “**via a public wastewater system**”, in relation to the drainage of any premises connected to a public wastewater system, includes drainage by a sewer or drain connecting directly with a public wastewater system or draining to that system through an intermediate sewer or drain; and
- “**premises**” any vehicle or vessel.
- (3) Subject to subsection (4), charges which are fixed in relation to any premises may be imposed so that a person is made liable in relation to those premises to pay charges for services provided by the Authority after that person has ceased to be the owner of the premises.
- (4) A person shall not be made liable by virtue of subsection (3) for any charges fixed in relation to any premises by the Authority, except where —
- (a) the person fails to inform the Authority of the ending of the person’s ownership at least five working days before the day on which the person ceases to own the premises;
- (b) the person fails to inform the Authority of the name and address of the new owner of the premises no later than five working days after the day on which the person ceases to own the premises; and
- (c) the charges are in respect of a period ending no later than the sixtieth day after the day on which the person ceases to own the premises.

Projects

9. (1) The Authority may carry out and provide any works and any services relating to the design, planning, construction, maintenance or repair of a water supply or wastewater system, whether or not the system is part of or connected to a public water supply or wastewater system.
- (2) For the purposes of carrying out and providing any of the works or services referred to in subsection (1) —

- (a) the Authority shall have the powers in respect of public water supply and public wastewater systems mentioned in paragraphs (a) and (b) of section 7(1); and
 - (b) the Authority shall have power to do any thing, including the expenditure or borrowing of money, which is calculated to facilitate, or is conducive or incidental to, those purposes.
- (3) The powers conferred on the Authority by subsection (1) shall only be exercisable —
- (a) for the purposes of facilitating any of the activities of —
 - (i) a Government school, or a private school registered under the *Education Act (2010 Revision)*;
 - (ii) a charitable body;
 - (iii) a Government hospital or clinic; or
 - (iv) a Government department or statutory corporation; or
 - (b) for any purposes where a state of emergency has been declared under the *Emergency Powers Act (2006 Revision)*.
- (4) The Cabinet may, after consultation with the Authority, direct the Authority to exercise any power conferred by subsection (1), and, if the Cabinet does so, the Cabinet may also give the Authority directions with respect to —
- (a) the manner in which, and time within which, the power is to be exercised; and
 - (b) the resources of the Authority with which the power is to be exercised.
- (5) The Authority shall not exercise the power conferred by subsection (1) above for a purpose falling within paragraph (a) of subsection (3) except pursuant to a direction given under subsection (4) by the Cabinet.
- (6) The Cabinet shall not give a direction under subsection (4) unless the Cabinet is satisfied —
- (a) that the exercise of any power pursuant to the direction would not prevent the Authority from carrying out its duties under sections 5 and 6 or from complying with any other direction given under subsection (4);
 - (b) that the Authority would not, solely by virtue of the direction, be likely to fail to carry out the duty specified in section 16 (duty of balancing revenue account);
 - (c) that the Authority would be able to exercise its powers pursuant to the direction without requiring for those purposes an advance, grant or guarantee made or given under section 13; and
 - (d) it is unlikely that the exercise of any power pursuant to the direction will have a substantially adverse effect on the development of competition in



the provision in the Islands of the works or services referred to in subsection (1).

Community activities

10. (1) The Authority may, subject to subsection (2), incur expenditure which, in the opinion of the Authority, is in the interests of the Islands or any or all of the residents of the Islands.
- (2) The Authority may incur expenditure —
- (a) on contributions to the funds of any sporting organisation representing residents of the Islands to facilitate or enable the participation of the organisation or its members in sporting activities, whether the participation is in or outside the Islands;
 - (b) on contributions to the funds of any charitable body in furtherance of its work in the Islands;
 - (c) in giving financial assistance to persons carrying on sporting or charitable activities for the purposes of enabling or facilitating them to carry out those activities; and
 - (d) in promoting or advertising any sporting organisation, or the sporting activities of any such organisation or of its members.
- (3) In subsection (2) —
- “**member**”, in relation to a sporting organisation, includes any person who participates in the sporting activities of the organisation or who otherwise benefits from facilities used by the organisation.

Financial procedure

11. The revenue of the Authority shall be classified under the following heads of receipts —
- (a) dues and charges received by virtue of this Act;
 - (b) amounts borrowed by the Authority; and
 - (c) miscellaneous receipts including interest on and service of investments, and such revenue shall, within seven days of receipt, be paid into a bank account approved by the Financial Secretary.
- (2) The revenue of the Authority shall be applied to meet the following heads of expenditure —
- (a) repayment of overdraft, if any, on current account;
 - (b) interest on loans;
 - (c) sinking fund on loan redemption;

- (d) reimbursement to the Government of all sums expended by it in respect of the salaries, pensions, gratuities and the like of public officers seconded under section 4(1);
 - (e) salaries and wages;
 - (f) reserve against liabilities for pension and other terminal benefits;
 - (g) repair and maintenance of premises and equipment and other current operating expenses;
 - (h) compensation payments;
 - (i) hire of transport and equipment;
 - (j) reserve fund for depreciation, renewals and expansion;
 - (k) recoverable charge expenditure; and
 - (l) miscellaneous expenditure approved by the Financial Secretary.
- (3) Any balance of account in favour of the Authority after provision for all expenditures provided by subsection (2) up to an annual amount to be prescribed in regulations may be transferred forward to a general reserve fund, and any balance in excess of that sum paid into the general revenue of the Islands.
- (4) The Authority shall cause estimates of expenditure and revenue to be prepared and adopted each year in respect of the financial year following, and such estimates, when adopted, shall be published in the Gazette.
- (5) The Authority shall also have the right to obtain wayleaves for the construction of any works associated with the public water or wastewater system, subject to compensation as prescribed.
- (6) The Authority will enjoy duty free concession on all materials and equipment imported into the Islands to be used on any project.

Borrowing powers

- 12.** (1) Subject to subsection (2), the Authority may borrow sums required by it for meeting any of its obligations or discharging any of its functions.
- (2) The power of the Authority to borrow shall be exercisable only with the approval of the Cabinet, as to the amount, sources of the borrowing and terms on which the borrowing may be effected. An approval given in any respect for the purposes of this subsection may be either general or limited to a particular borrowing or otherwise, and may be either unconditional or subject to conditions.

Advances, grants and guarantees

- 13.** (1) The Cabinet may make advances and grants to the Authority out of sums placed upon the estimates of the Islands for the purpose, and approved by the Cayman Islands Parliament.



- (2) With the approval of the Cayman Islands Parliament, the Cabinet may guarantee, in such manner and on such conditions as the Cabinet may think fit, the payment of the principal and of interest on any authorised borrowings of the Authority made otherwise than by way of advance under subsection (1).
- (3) Where the Cabinet is satisfied that there has been default in the repayment of any principal moneys or interest guaranteed under this section, the Cabinet shall, with the prior approval of the Standing Finance Committee of the Cayman Islands Parliament, direct the repayment out of the general assets and revenue of the Islands of the amount in respect of which there has been such default.

Repayment of advances, etc.

14. The Authority shall pay into the Treasury, at such times and in such manner as the Cabinet may direct, such amounts as may be so directed in or towards repayment of advances made to the Authority under section 13, and any sums issued in fulfilment of any guarantee given thereunder, and shall pay into the Treasury interest on what is outstanding for the time being in respect of such advances, and any sum so issued at such rate as the Cabinet may direct, and different rates of interest may be directed as respect different advances or sums and as respect interest for different periods.

Reserve funds

15. (1) Authority shall maintain a reserve fund and may, with the approval of the Financial Secretary, invest its reserve fund at interest.
- (2) The management of the reserve fund, the sums to be carried from time to time on the credit thereof and the application thereof shall be as the Authority may determine:
Provided that —
 - (a) no part of the reserve fund shall be applied otherwise than for the purposes of the Authority; and
 - (b) the power of the Cabinet to issue policy directives to the Authority shall extend to the issue to it of directives as to any matter relating to the establishment or management of the reserve fund, the carrying of funds to the credit thereof or the application thereof, notwithstanding that the directive may be of a specific character.

Balancing of revenue account

16. It is the duty of the Authority to exercise and perform its functions so as to secure that its revenues are sufficient to meet all sums properly chargeable to its revenue account, including, without prejudice to the generality of that expression, provisions in respect of its obligations under sections 14 and 15 taking one year with another.

Accounts and audit

17. (1) The Authority shall keep proper accounts of all its transactions to the satisfaction of the Financial Secretary and in a form which shall conform with the best commercial standards and such accounts shall be made up to the 31st day of December of each year, and shall submit the same with vouchers to the Auditor General to be audited, who shall report thereon to the Authority and the Financial Secretary.
- (2) The Auditor General shall be entitled, at all reasonable times, on the direction of the Cabinet, to examine such accounts and vouchers.

Reports and accounts to be laid on table

18. The Authority shall, within one month of its receipt of the Auditor General's report, prepare a report of its activities during the period to which the Auditor General's report relates; and both such reports, together with the audited accounts, shall thereupon be laid on the table of the Cayman Islands Parliament.

PART III – Control of Water Resources Use**Vesting and control of ground water**

19. Subject to this Act, all ground water in the Islands shall hereinafter vest in the Crown and shall be controlled by the Authority in the name of and on behalf of the Crown.

Existing water abstractions licensed

20. (1) A person who, in the twelve months prior to the 18th April, 1983, has abstracted ground water for other than domestic purposes and who has failed, within six months of that date, to apply to the Authority for the grant of a licence under this Act, shall have created a conclusive presumption of the abandonment of the entitlement to a licence to abstract and use ground water.
- (2) A person who has applied to the Authority, within the period specified under subsection (1), and who has satisfied the Authority that the requirements of the said subsection have been met, shall be issued with a licence to abstract and use ground water for other than domestic purposes, and such licence shall be recorded by the Authority in the register of licences.

Contents of licence

21. (1) Every licence which was granted under section 20(2) to an applicant shall have stated on it —
- (a) the person to whom it was granted;
 - (b) the location of the works;



- (c) the maximum quantity that may be abstracted in any period, the rate of abstraction and the purpose for which the water is to be used, and the land in which respect the licence is granted;
 - (d) the works that existed at the grant of the licence; and
 - (e) the duration of the licence.
- (2) Such licence does not authorise the abstraction of water in excess of the rate and quantity specified in the licence.

When water abstraction and works lawful

- 22.** (1) Subject to sections 20 and 21, a person who abstracts and uses ground water for other than domestic use, or to construct, enlarge or alter any works therefor, except with a licence granted under this Act commits an offence:

Provided that this shall not apply to —

- (a) any person acting for or on behalf of the Authority; or
 - (b) the doing of any thing for firefighting purposes, for the purposes of testing apparatus used for these purposes or for training or practise in the use of such apparatus.
- (2) For the purposes of subsection (1) —
- “**enlarge**” means to enlarge a well or other works to such extent that the maximum rate of abstraction of ground water therefrom is increased from that obtainable on the 18th April, 1983 by more than twenty-five percent.

Grant of new abstraction licences

- 23.** (1) Applications for the obtaining or renewal of a licence to abstract ground water for commercial use shall be made and disposed of in the manner to be prescribed by regulations to be made by the Cabinet:

Provided that —

- (a) any person wishing to object to the granting or renewal of a licence shall be given an opportunity to do so; and
 - (b) in the issuance of a licence for the abstraction of ground water the Authority may, having regard to the preservation of water levels and the protection of the aquifer from contamination or depletion, determine safe yields, establish well spacing requirements and impose and enforce conditions and restrictions on the number of wells in an area and on the rate, time and total quantity of abstraction from each well, group of wells or all wells in the area.
- (2) The grant of a licence for the construction of any works shall not have the effect of dispensing with the necessity for obtaining planning permission therefor when such permission is required by the *Development and Planning Act (2021 Revision)*.

- (3) Nothing in the grant of a licence shall be deemed to imply any guarantee that the quantity of water therein referred to is or will be available or that, where such water may not be used without the permission of any person or authority under the *Public Health Act (2021 Revision)* or other statutory provision, that such permission will be granted, or otherwise derogate from such law or statutory provision.
- (4) A licence granted by the Authority under subsection (1), and any variation, revision, termination and diminution thereof shall be registered by the Authority in the manner prescribed by regulations.
- (5) Every licence granted under this section shall specify —
 - (a) the person to whom it is granted;
 - (b) the location of the works;
 - (c) the maximum quantity that may be abstracted in any period, the rate of abstraction and the purpose for which the water is to be used and the land in which respect the licence is granted;
 - (d) the works existing; and
 - (e) the duration of the licence.

Rights conditional on construction work

- 24.** (1) Where the Authority has granted a licence subject to the construction of works within a specified period, it may, on application and notwithstanding that the period previously allowed may have expired, extend the period for the construction of such works on not more than two occasions.
- (2) An applicant shall notify the Authority, in the manner prescribed by the regulations, of the date of commencement and completion of the works and the Authority, at its discretion, may cause the works to be inspected during construction and on completion by an officer designated by the Authority.
- (3) No licence issued under this section shall be deemed to imply any guarantee that the works are properly designed or constructed nor shall support or justify any claim of any nature against the Crown, the Authority or any public officer in connection with such works.

Discretion of the Authority

- 25.** Without derogating from the generality of the discretion of the Authority under this Part, the Authority shall, in the exercise of that discretion, have regard to the following matters —
- (a) the policy directives issued by the Cabinet; and
 - (b) the provisions of the water resources development plan provided for by section 5:



Provided that the Authority shall not license a proposed abstraction of ground water unless it is satisfied that such abstraction is for a beneficial use as defined in this Act.

No prescriptive rights to water

- 26.** No person shall, after the 18th April, 1983, acquire or be deemed to have acquired any right to abstract or use any ground water by reason of length of use or lapse of time.

PART IV – Revision, Variation, Termination and Diminution of Licences

Meaning of licence

- 27.** For the purposes of this Part —

“**licence**” shall include a licence granted section 20, 21, 22 or 23.

Inadequacy of water supply for satisfaction of water abstraction licences

- 28.** If, at any time in any specified area, the quantity of water to which licences exist is insufficient to satisfy all such licences and unlicensed domestic abstractions, the Authority may review the allocation of ground water in that area, and in so doing they may revise the quantity allowed by any licence and the terms and conditions thereof to the use of water in that area and record such revised quantity, terms and conditions in the register of water licences and so inform the holders of the licences:

Provided that the Authority shall have regard to the principle that where full use of the water has been maintained to the extent permitted by a licence, no licence shall be cancelled or reduced except in proportion with all other licences in the same area.

Suspension or variation of licences on account of excessive use

- 29.** Where, in the opinion of the Authority, the supply of ground water from any source or in any area is or is likely to —

- (a) become insufficient for the needs of persons using it on account of excessive use, drought or an emergency; or
- (b) deteriorate in quality on account of abstraction in excessive quantities or at an excessive rate,

the Authority may, at any time, suspend or vary, by notice to the holders of water licences, all or any licence to abstract or use water from that source, or in that area, for such period as the Authority may deem necessary, and upon such notice being given by the Authority, such licences shall cease for the period of suspension or shall be exercisable only as so varied, as the case may be.

Variation of licence on application

30. The Authority may, on the application of the holder of a licence, terminate or diminish the right granted thereunder or vary any of the conditions thereof.

Termination for breach of a condition

31. (1) Where the holder of a licence has —
- (a) failed to comply with any condition, express or implied, subject to which the licence was granted;
 - (b) abstracted or used ground water in excess of that authorised or has used ground water for a purpose not authorised by grant; or
 - (c) committed an offence against this Act,

the Authority may, by notice in writing addressed to the holder, declare the licence to be terminated:

Provided that where the default is one capable of being remedied, the Authority shall first serve on the holder notice in writing specifying the default and requiring the holder to remedy the same within such time as may be specified in the notice and if the default is so remedied the Authority shall not declare the licence terminated.

- (2) In the case where a breach under paragraph (b) of subsection (1) occurs, the licence holder shall have committed an offence under section 61 on account of that licence holder's wasteful use.

Termination or diminution for public purposes

32. (1) Where the Cabinet deems it necessary or expedient in the interest of the use of ground water in such manner as to promote the public benefit or the utilisation of such ground water in such manner as to promote the economic well-being of the community, the Cabinet may authorise the Authority to give notice in writing addressed to the holder of any licence terminating or diminishing the licence granted thereunder to the extent that the water is required for such public benefit or economic well-being, and thereupon the licence shall lapse or shall be exercisable only as so diminished, as the case may be.
- (2) The holder of any licence terminated or diminished under subsection (1) shall be eligible to receive as an *ex gratia* payment from the Authority such sum, not exceeding three thousand dollars, as the Authority may, in its absolute discretion, determine.
- (3) The holder of any licence terminated or diminished under subsection (1) shall have recourse from the determination of the Authority under this section, in the manner provided for in Part X.



Termination or diminution for non use

- 33.** (1) If, at any time, the Authority has reason to believe that the holder of a licence has not, during the preceding period of twelve months, made full use of the licence, it may, by notice in writing addressed to such holder, call upon the holder of a licence to show cause why such licence should not be terminated, diminished or modified in such respects as may be specified in the notice.
- (2) If, within thirty days of the service of such notice, no reply has been received by the Authority, it may declare the licence terminated, diminished or modified, as the case may be.
- (3) The holder of a licence upon whom a notice has been served under subsection (1) may, within thirty days of such service, submit to the Authority a statement in writing of reasons why the licence should not be terminated, diminished or modified, as the case may be, and shall have a right to be heard in the matter.
- (4) The Authority shall consider any statement submitted to it under subsection (3) and shall, if so required, give the holder an opportunity of being heard in person or by the holder's legal representative, and may thereafter, by notice in writing addressed to the holder, declare —
- (a) the licence terminated;
 - (b) the licence diminished or modified in such respects as may be specified in the declaration; or
 - (c) the licence be unchanged.

PART V – Water Pollution Control**When activities and discharges unlawful**

- 34.** (1) A person who undertakes any activity likely to affect ground water, including —
- (a) the discharge of any wastewater effluent, trade effluent or other wastes into ground water, into or onto the ground;
 - (b) the construction, replacement or alteration of canals; or
 - (c) quarrying,
- except with a permit from the Authority, and subject to such terms and conditions as it deems fit, including standards of effluent quality, commits an offence.
- (2) The grant of a permit for the undertaking of any activity under subsection (1) shall not have the effect of dispensing with the necessity of obtaining planning permission therefor when such permission is required by the *Development and Planning Act (2021 Revision)*.

When discharges into territorial waters lawful

35. (1) A person who discharges any wastewater, trade effluent or other wastes into the territorial waters, except with a permit from the Authority, and subject to such terms and conditions as it deems fit, including standards of effluent quality, commits an offence.
- (2) Nothing in this section shall apply to the discharge of any matter or substance from a vessel into the territorial waters.

Grant of permits

36. (1) Applications for the obtaining or renewal of a permit under section 34 or 35 shall be made and disposed of in a manner prescribed by regulations:

Provided that —

- (a) any person wishing to object to the grant or renewal of a permit shall be given an opportunity to do so; and
- (b) a permit shall be subject to restrictions as to its duration as may be specified in regulations.
- (2) A permit may be modified, suspended or revoked by the Authority —
- (a) for any material false statement in the permit application;
- (b) for breach of any condition of the permit;
- (c) for refusal to allow inspection of works as provided by subparagraph (v) of paragraph (f) of section 7(1);
- (d) to protect ground water;
- (e) to protect public health, public safety or public welfare; or
- (f) to protect any commercial, domestic or municipal uses of water.

Permits to be registered

37. Permits granted by the Authority under section 34 or 36 and any modification, suspension or revocation thereof shall be registered by the Authority in the manner to be provided by regulations.

PART VI – Water Supply

When connections lawful

38. (1) It shall be unlawful for any person to connect their premises to a public water supply system owned or operated by the Authority, except with its consent.
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine of one thousand dollars and to imprisonment for one year,



and upon such conviction the Authority shall disconnect the premises at the expense of the owner or occupier.

Water supply connections

- 39.** (1) Where in any public or private road, there exist public water supply pipes or mains owned or operated by the Authority, the owners or occupiers of any premises may make application for a supply of water therefrom.
- (2) Upon the application being granted on the terms prescribed, the Authority shall, at the expense of the applicant, lay the necessary mains and services to bring water to the boundary of the premises or an agreed point.
- (3) The mains and services laid up to and including the meter located immediately within the boundary of the premises or at the agreed point shall be vested in the Authority.

Supply of water may be cut off while default continues

- 40.** (1) Where a person who has been supplied with water under an agreement with the Authority makes default in any payment due thereunder or takes water excessively beyond the person's reasonable needs, the Authority may, thirty days after such default, cut off and discontinue such supply using any reasonable means in that behalf until the amount due together with any incidental expenses incurred to the Authority have been paid, whereupon the supply shall be restored without unreasonable delay.
- (2) If, at any time after the water supply has been cut off from any premises, the owner or occupier of the premises shall fraudulently obtain a renewal of supply without the order of the Authority, such owner or occupier commits an offence and is liable on conviction to a fine of fifty dollars in respect of each day during which the supply shall have been so renewed.

Purity of water for domestic purposes

- 41.** The Authority shall secure that the water in any works belonging to it or operated by it from which water is supplied for human consumption is pure and wholesome and meets the standards of purity, both chemical and bacteriological, laid down in regulations made or to be made under section 4(1) of the *Public Health Act (2021 Revision)*.

PART VII – Wastewater and Wastewater Disposal

New building to be connected to wastewater system

- 42.** (1) Subject to section 44(2), all new or reconstructed buildings within the area to which the public wastewater system extends shall be connected to it.



- (2) On failure or neglect by the owner of any such building to connect it to the public wastewater system, the Authority may enter into the building at any reasonable time and connect the same, and the expense thereof shall become a debt due from the owner to the Authority and a charge upon the building and, in addition, the owner commits an offence and is liable on conviction to a fine of five hundred dollars and to imprisonment for six months.

Connection of existing buildings

- 43.** (1) Subject to section 44(2), the Authority may, by notice in writing, require the owner or occupier of any existing building found by the Authority to be disposing of wastewater into ground waters or into or onto the ground to connect the building at that owner's or occupier's own expense to the public wastewater system, within such period as the Authority may allow:

Provided that such a system shall be readily accessible.

- (2) On failure or neglect by the owner or occupier to cause any such building to be connected to the public wastewater system within the period allowed, the Authority may enter into the building at any reasonable time and connect the same, and the expense thereof shall become a debt due from the owner or occupier to the Authority and a charge upon the building and, in addition, the owner or occupier, as the case may be, commits an offence and is liable on conviction to a fine of five hundred dollars and to imprisonment for six months.

No connection or discharge of trade effluent without consent

- 44.** (1) No person shall connect any sewer or storm-water drain to the public wastewater system without the consent in writing of the Authority.
- (2) No person shall discharge any trade effluent into the wastewater system owned or operated by the Authority without a permit from the Authority and subject to such terms and conditions as it deems fit, including standards of effluent quality.

Power of Authority to require proposed sewer to be so constructed as to form part of a central system

- 45.** (1) Where a person proposes to construct a sewer the Authority may, if it considers that the proposed sewer is, or is likely to be needed to form part of the public wastewater systems which it has provided or is proposing to provide, require the person to construct the sewer in a manner differing, as regards materials or size of pipes, depth fall, direction or outfall, or otherwise, from the manner in which the person proposes, or could otherwise be required by it, to construct it, and it shall be the person's duty to comply with such requirements:

Provided that, if the person is aggrieved by any such requirements of the Authority, the person may, within twenty eight days, appeal to the Grand Court which may either disallow the requirements or allow them with or without modification.



- (2) The Authority, in the exercise of its powers under this section, shall repay to the person constructing the sewer the extra expenses reasonably incurred by the person in complying with its requirements and, until the sewer becomes part of the Authority's system, it shall repay to the person so much of any expenses reasonably incurred by the person in repairing or maintaining it as may be attributable to its requirements and, if any question arises as to the amount of any payment to be made to the person under this subsection, that question may, by the person's application, be determined by a court of competent jurisdiction.
- (3) A person who, having under this section been required by the Authority to construct a sewer in a particular manner, constructs it otherwise than in accordance with such requirement commits an offence and is liable on conviction to a fine of one thousand dollars:

Provided that any such fine shall not prejudice the right of the Authority to any other remedy.

Water pollution control

- 46.** Nothing in this Act shall exempt the Authority, in its disposal of wastewater and trade effluents, from complying with Part V:

Provided that any reference to the Authority contained in that Part, shall be construed as a reference to the Cabinet.

Septic tank and cesspool empties

- 47.** (1) Any person engaged in the business of emptying septic tanks or cesspools shall apply for a permit to do so from the Authority, and all materials removed by these operators shall be disposed of as the Authority may direct and to the satisfaction of the Chief Environmental Health Officer.
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine of ten thousand dollars and to imprisonment for twelve months.

Certain matters not to be passed into Authority's sewer

- 48.** (1) A person who throws, empties, turns or suffers or permit to be thrown, emptied or passed into any sewer under the control of the Authority, or into any sewer connecting with such a sewer —
- (a) any matter likely to injure the sewer, to interfere with the free flow of its contents or to prejudicially affect the treatment and disposal of its contents;
 - (b) any chemical refuse, chemical, acid, petrol or any inflammable liquid; or
 - (c) unless written permission from the Authority is obtained, any surface water run-off,

commits an offence and is liable on conviction to a fine of ten thousand five hundred dollars and to a further fine of five hundred dollars for each day on

which the offence continues after first notification of the offence by the Authority.

PART VIII – Licensing of Well-Diggers

All commercial well-diggers to be licensed

- 49.** A person who, for hire or reward, constructs, enlarges or alters any well without holding a well-digger’s licence issued or renewed as provided by regulations commits an offence.

Revocation of well-diggers licence

- 50.** The Authority may, at any time, revoke a well-digger’s licence if the holder has contravened any provision of this Act with which it was the holder’s duty to comply, but before exercising its power under this section the Authority shall give such holder an opportunity of making representations in regard to such revocation.

Duties of well-diggers

- 51.** (1) A person who, holding a well-digger’s licence —
- (a) fails to satisfy himself prior to constructing, enlarging or altering a well for any other person that such person holds a licence enabling it to be so constructed, enlarged or altered, where such a licence is required; or
 - (b) fails to make to the Authority such returns relating to the construction of wells by that person as may be prescribed in regulations, or who makes any such return which is incomplete or inaccurate in any detail,
- commits an offence.
- (2) In any prosecution in which it is alleged that any person holding a well-digger’s licence has failed to satisfy himself as provided for in subsection (1), it shall be evidence of such failure that the person for whom the well is constructed, enlarged or altered does not hold a licence enabling such work to be done.

Register of licences

- 52.** The Authority shall keep a register of well-digger’s licences.



PART IX – Miscellaneous Powers

Right to obtain information

- 53.** (1) The Authority may, by notice in writing served on any person who is the holder of a licence or entitled to the possession of any land, require that person to keep such records and, additionally or alternatively, to furnish in such form and manner and within such time as may be specified in the notice or as may be prescribed by regulations, such periodical or other estimates or returns —
- (a) as the Authority may specify, for the purpose of ascertaining the amount or rate of water abstracted under the authority of a licence or the amount and quantity of wastewater or trade effluent discharge under the authority of a permit; and
 - (b) relating to such matters as may be prescribed, as matters on which a person may be required to give information as being relevant to the conservation and best use of water in the Islands.
- (2) A person who, being required to keep records or to furnish estimates or returns under subsection (1), fails to do so shall, unless the person proves that that person has reasonable excuse for such failure, that person shall have committed an offence and shall be liable on conviction to the penalties specified in section 64, in addition to the suspension or cancellation of the person's licence or permit.

Power to inspect works, take samples

- 54.** (1) Any person authorised by the Authority shall, on producing (if so required) some duly authenticated document showing that person's authority, be entitled at all reasonable hours to enter upon any land —
- (a) to monitor compliance with this Act and with any conditions subject to which a licence or permit has been granted;
 - (b) to inspect and investigate conditions relating to the quality of ground water; and
 - (c) to install, maintain, read or test any meter installed for the purposes of this Act.
- (2) Any person acting under subsection (1) is entitled to —
- (a) take measure to ascertain the quality of water abstracted or capable of being abstracted by means of any works;
 - (b) examine records kept for the purpose of this Act; and
 - (c) take a sample of any water, effluent or other substance which may appear to that person as being capable of affecting the quality of ground water.
- (3) Any person authorised by the Authority shall, on producing (if so required) some duly authenticated document showing that person's authority, be entitled

at all reasonable hours to enter upon any land to make such investigations and surveys as the Authority may consider necessary in the interests of the conservation and best use of water in the Islands, and may establish and maintain on any such land, without other authority than this Act, works for the purpose of obtaining and recording information and statistics as to the hydrological and hydrogeological condition of the Islands:

Provided that compensation shall be payable by the Authority for all damage done and for any land occupied for the construction of works and, in default of agreement, the amount shall be determined by a court of competent jurisdiction.

- (4) A person who wilfully obstructs a person authorised by the Authority in the exercise of that person's powers under this section or interferes with or damages any works established or maintained under subsection (3) commits an offence.

Power to require repair, etc.

- 55.** If, in the opinion of the Authority, any works are so constructed, maintained or used or are being so constructed as to constitute a danger to life, health or property, it may require any person for the time being enjoying the benefits of those works to carry out such repairs, to effect such additions or modifications to such works, to carry out such demolition or to change the use of the works in such manner as the Authority may consider necessary, and may, by notice in writing, suspend any licence or permit granted or renewed under this Act, until it is satisfied that such requirements have been fulfilled.

Power to require demolition of unlawful works and stop water abstraction, pollution, etc.

- 56.** (1) The Authority may, by notice in writing, require any person —
- (a) who has constructed, enlarged, altered or undertaken or caused to be constructed, enlarged, altered or undertaken any works, canals or quarrying operations contrary to this Act; or
 - (b) whose licence, in respect of any such works or operations, has been terminated under this Act or has otherwise come to an end,
- to modify, demolish or remove such works or operations within such period, not being less than twenty days after the service thereof, as may be specified in the notice.
- (2) The Authority may, by notice in writing, require any person who causes or knowingly permits —
- (a) the abstraction of ground water otherwise than in accordance with this Act;
 - (b) the discharge of any wastewater, trade effluent or other wastes into ground waters, into or onto the ground or into the territorial waters, contrary to this Act;



- (c) the discharge of trade effluents into the public wastewater system owned or operated by Authority, otherwise than in accordance with a permit granted by the Authority; or
 - (d) any ground water to run to waste,
- to take steps as may be specified in the notice either forthwith or within such time as may be specified to cease or prevent such abstraction, discharge or waste.
- (3) Any person on whom a notice has been served under this section who is aggrieved by the notice may, at any time within thirty days of the service thereof, appeal against the notice to a Magistrate's court; and on any such appeal the court —
 - (a) if satisfied that the notice was an unlawful notice, may quash the same;
 - (b) if satisfied that the notice was inequitable and that it would be appropriate to vary its terms, may vary it accordingly; or
 - (c) in any other case, shall dismiss the appeal,
 and may make such order as to costs as it thinks just.
 - (4) When an appeal is made to the court under subsection (3) by a person upon whom a notice under this section has been served, the operation of the notice shall be suspended pending the final determination or withdrawal of the appeal and, where the notice is varied on any such appeal or where the appeal is dismissed, then the court, may, if it thinks fit, direct that the notice shall not come into force until such date, not being later than twenty-eight days from the determination or dismissal of the appeal:

Provided that the operation of a notice which is expressed to take effect forthwith shall not be so suspended but shall continue in operation unless the court hearing the appeal otherwise orders.
 - (5) The Authority may, at the request of the person on whom it is served, extend any period specified in a notice under this section for the taking of any steps.

Supplementary provisions as to enforcement

- 57.** (1) If any steps required to be taken by notice under section 56 have not been taken, the Authority may enter on the land and take those steps, and may recover as a simple contract debt in a court of competent jurisdiction from the holder of a licence or of a permit granted or renewed under this Act, any expenses reasonably incurred by the Authority in that behalf and, if that person having been entitled to appeal to the court under section 56 has failed to appeal, that person shall not be entitled to any proceedings to dispute the validity of the action taken by the Authority under this subsection upon any grounds that could have been raised by such an appeal.

- (2) Subject to subsection (1), where a notice has been served under section 56(2) on the holder of a licence or of a permit granted or renewed under this Act, and within the period specified in the notice or within such extended period as the Authority may allow, any steps required by the notice have not been taken, that person commits an offence and is liable on conviction to the penalties specified in section 64, in addition to the cancellation of that person's licence or permit.

PART X – Appeals

Appeal to the Magistrate's Court

- 58.** (1) Any person aggrieved by a decision of the Authority may, by notice, appeal to the Summary court.
- (2) A notice under this section shall be served within such time and in such manner as may be prescribed by regulations.
 - (3) The court, subject to this section, may allow or dismiss such an appeal, or may reverse or vary any part of the decision of the Authority, whether the appeal relates to that part or not, and may otherwise deal with the appeal as if the application had been made to it in the first instance.
 - (4) Before determining such an appeal, the court shall, if the appellant so desires, afford the appellant an opportunity of making representations to a person appointed by the court for that purpose.
 - (5) In the exercise of its powers under this section the court shall have regard to the matters specified in section 25.

Appeal to the Grand Court

- 59.** (1) Any party to an appeal under section 58 who is aggrieved by the decision of the court in the matter may appeal to the Grand Court on a point of law within twenty-one days after receipt of notification of such decision or within such longer period as the Grand Court may allow.
- (2) On an appeal under this section, the Grand Court may make such order, including an order for costs, as it thinks fit.
 - (3) An order of the Grand Court made under subsection (2) shall be final and not subject to any appeal.



PART XI – Penalties and Supplementary

Sale of ground water

- 60.** A person who, without the authority of a licence granted under this Act, sells ground water abstracted thereunder commits an offence and is liable on conviction in addition to the penalties specified in section 64, to the revocation of that person’s licence.

Control of waste of abstraction

- 61.** A person who causes or allows any ground water to run to waste from any well or pond, except for the purpose of testing the extent or quality of the supply or of cleaning, sterilising, examining or repairing the well or pond, commits an offence:

Provided that where any water interferes or threatens to interfere with the execution or operation of any underground works it shall not be an offence under this subsection to cause or allow the water to run to waste so far as it may be necessary to enable the works to be executed if no other method of disposing of the water is reasonably practicable.

Wilful damage

- 62.** A person who wilfully damages or causes to be damaged the public water supply system or the public wastewater system owned or operated by the Authority in any manner whatever commits an offence and is liable on conviction to the penalties specified in section 64, in addition to the payment of such sum as may be determined by a court of competent jurisdiction as compensation to the Authority for any expense incurred or likely to be incurred in repairing the damage.

False statement

- 63.** A person who makes any statement which the person knows to be false for the purpose of procuring, either for themselves or any other person, any licence, permit, franchise license or authority capable of being granted under this Act commits an offence.

Penalties

- 64.** (1) A person who commits an offence under sections 22(1), 34(1), 35, 49 or 61 is liable to a fine of six thousand dollars and to imprisonment for one year.
- (2) A person who commits an offence under section 51(1), 53(2), 54(4), 57(2), 60, 62 or 63, is liable to a fine of three thousand dollars and to imprisonment for six months.
- (3) In addition to the penalties imposed under subsections (1) and (2), the court may, in the event of a continuing offence, impose a further fine of one hundred dollars in respect of each day after the first during which the offence continues.

Offences by corporations

- 65.** Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect or default on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who is purporting to act in any such capacity, that person, as well as the body corporate, commits that offence and both are liable to be proceeded against and punished accordingly.

Order for payment of compensation

- 65A.**(1) Where a person is convicted of an offence under this Act, the court may make an order for the payment of compensation to any person for damage caused by the offence.
- (2) A claim by a person for damages sustained by reason of the offence shall be deemed to have been satisfied to the extent of any amount which has been paid to that person under an order for compensation, but the order shall not prejudice any right to a civil remedy for the recovery of damages from the person convicted of the offence beyond the amount of compensation paid under the order.

Connections to water supply and wastewater systems

- 66.** All pipe-laying and other works for the purpose of connecting any premises to a water supply and wastewater system owned or operated by the Authority shall be effected by the Authority, or by a plumber licensed by the Authority under this Act under the supervision of the Authority, at the expense of the owner or occupier of such premises.

Central Planning Authority to consult with Authority

- 67.** (1) Where plans for the construction, reconstruction or extension of a building are deposited with the Central Planning Authority in accordance with the *Development and Planning Act (2021 Revision)* four copies of such plans shall be submitted to the Authority for its approval in respect of the proposals for water supply and wastewater disposal, and the Central Planning Authority shall adopt the recommendations of the Authority in respect to wastewater treatment, disposal and water supply.
- (2) Before making any such recommendations, the Authority shall consult with the Chief Environmental Health Officer appointed under the *Public Health Act (2021 Revision)*.

Duty of Authority to keep maps showing their sewers and supply lines

- 68.** The Authority shall keep deposited at their offices, for inspection by any person at any reasonable hours free of charge, maps showing and distinguishing all public water supply and public wastewater lines.



Vesting of property

69. There is vested in the Authority without further assurance —

- (a) such land, with the buildings and works thereon, the property of the Government, used at the 18th April, 1987, for water and wastewater purposes as the Cabinet may at any time direct; and
- (b) the plant, equipment and tools and other goods, the property of the Government, used in connection with such land prior or up to the 18th April, 1983, recorded in an inventory prepared at the direction of the Financial Secretary, approved by the Authority and entered as assets in the accounts of the Authority.

Power to make regulations

70. (1) The Cabinet may, after consultation with the Authority, make regulations —

- (a) prescribing anything which is required to be, or which may be prescribed;
- (b) prescribing the registers and records to be kept and the manner in which they are to be kept;
- (c) providing for the forms to be used in respect of any matter required or permitted to be done;
- (d) providing for the advertisement of applications for licences and permits and for the giving of notice to interested persons;
- (e) providing for and regulating the making of objections and the time within which such objections shall be made;
- (f) regulating the procedure on appeals;
- (g) prescribing the manner in which and the matters on which persons may be required to give information as provided in section 53, being matters relevant to the conservation and best use of water resources in the Islands;
- (h) prescribing standards and requirements for the drilling, construction and completion of wells, the plugging, filling or capping of boreholes not used for the production of water or the water from which is not used, and the filing of returns;
- (i) preventing the waste, misuse and pollution of water supplied by the Authority, including the metering of such water, and the imposing of penalties on persons who —
 - (i) fail to comply with such regulations;
 - (ii) interfere with any person in the execution of that person's duties under any such regulations; and
 - (iii) damage or interfere with any meter;

- (j) prescribing charges and fees, or the criteria for calculating charges and fees, to be paid by service providers to the Authority in respect of the various statutory functions exercised by the Authority under this Act;
- (k) **Repealed** by section 7(c) of the *Water Authority (Amendment) Law, 2017*;
- (l) **Repealed** by section 7(c) of the *Water Authority (Amendment) Law, 2017*;
- (m) **Repealed** by section 7(c) of the *Water Authority (Amendment) Law, 2017*;
- (n) **Repealed** by section 7(c) of the *Water Authority (Amendment) Law, 2017*;
- (o) prescribing the minimum standards and specifications to be used in the design, construction, protection and maintenance of water and wastewater installations and apparatus, the conditions under which such installations or apparatus are to be worked or operated and the prohibition of the use of dangerous apparatus;
- (p) prescribing qualifications for the licensing of well-diggers;
- (q) prescribing effluent quality standards or criteria therefor;
- (r) prescribing fees for licenses and permits issued under this Act; and
- (s) generally for the better carrying out of this Act.

Fees

71. Fees prescribed in regulations shall be payable in relation to anything done by the Authority or the Cabinet under this Act, and the Authority or the Cabinet, as the case may be, may decline to exercise its powers under this Act unless such fees have been paid.

Service of notices, etc.

- 72.** (1) Any notice or other document required or authorised by this Act to be served or given by the Authority or by the Cabinet shall be deemed to have been duly served or given —
- (a) if delivered personally to, or if left at the last known place of abode or business of, the person on or to whom the notice of other document is to be served or given; or
 - (b) if sent by prepaid letter addressed to the person on or to whom the notice or other document is to be served or given at the person's last known place of abode or business whether in or out of the Islands.
- (2) Service of any notice or other document by post in accordance with paragraph (b) of subsection (1) shall *prima facie* be deemed to have been effected at the time when it would be delivered in the ordinary course of post.
- (3) Any notice or other document required to be served on or given to any person having an interest in, or being entitled to possession of, any land, shall be deemed to be duly served on all persons having an interest in and on all persons entitled to possession of the land (other than a person who has furnished an



address for the service on that person of any notice) if it is addressed by the description of “the occupier” of the land (describing it) and is affixed conspicuously to some object on that land.

Transitional provisions

- 73.** (1) A licence or other enabling instrument issued to a person to provide any aspect of water supply or wastewater services, pursuant to the *Water (Production and Supply) Law, 2011*[Law 2 of 2011] or the *Wastewater Collection and Treatment Law, 2011*[Law 3 of 2011] in the Islands and valid and in force immediately prior to the coming into force of the *Water Authority (Amendment) Law, 2017* [Law 17 of 2017], shall, on the coming into force of the *Water Authority (Amendment) Law, 2017* [Law 17 of 2017], continue to be valid and in force for the remainder of the term as if it were a licence or enabling instrument granted under the *Water Sector Regulation Act (2019 Revision)* and the licence or enabling instrument shall continue to be subject to each and every one of the terms, conditions and exemptions attaching to the licence or enabling instrument as if the terms, conditions and exemptions had been imposed or granted under the *Water Sector Regulation Act (2019 Revision)*.
- (2) Where a person who possesses a licence or enabling instrument as described in subsection (1) has entered into an agreement with the Water Authority, being an agreement to surrender and terminate the licence or enabling instrument and to replace the same with a new licence or licences, immediately upon the surrender and termination of the licence or enabling instrument, the Office shall grant to that person the new licences on such terms, conditions and exemptions as have been so agreed, but the licences shall otherwise be subject to the *Water Sector Regulation Act (2019 Revision)*.
- (3) Where, immediately prior to the coming into force of the *Water Authority (Amendment) Law, 2017*[Law 17 of 2017], a person is in the process of negotiating with the Water Authority an agreement to provide any aspect of water supply or wastewater services, pursuant to the *Water (Production and Supply) Law, (2018 Revision)* or the *Wastewater Collection and Treatment Law, (2018 Revision)*, those negotiations shall, on the coming into force of the *Water Authority (Amendment) Law, 2017*[Law 17 of 2017], cease and the Office shall continue the negotiations pursuant to its functions and powers under the *Water Sector Regulation Act (2019 Revision)*.
- (4) A licence or other enabling instrument issued to a person to provide any aspect of water supply or wastewater services, pursuant to the *Water (Production and Supply) Law, 2011* or *Wastewater Collection and Treatment Law, 2011*, in the Islands and valid and in force immediately prior to the coming into force of the *Water Authority (Amendment) Law, 2017*[Law 17 of 2017] shall, on the coming into force of the *Water Authority (Amendment) Law, 2017* [Law 17 of 2017], be subject to the provisions of the *Water Sector Regulation Act (2019 Revision)*

and the authority of the Office, as though the licence or enabling instrument were issued by the Office under the *Water Sector Regulation Act (2019 Revision)*.

- (5) All rates and charges, standards or any rules or regulatory policies that are in effect on the date of commencement of the *Water Authority (Amendment) Law, 2017 [Law 17 of 2017]* shall, on the coming into force of the *Water Authority (Amendment) Law, 2017 [Law 17 of 2017]*, remain in effect as though they were determined by the Office until otherwise modified, replaced or repealed by the Office.
- (6) Notwithstanding the commencement of the *Public Authorities Law, 2017 [Law 21 of 2017]*, the appointment of the Director under section 4(1) prior to the commencement of the *Water Authority (Amendment) Law, 2018 [Law 14 of 2018]* shall be valid and shall continue.
- (7) Any acts, decisions or proceedings of the Board that were carried out prior to the commencement of the *Water Authority (Amendment) Law, 2018 [Law 14 of 2018]* shall not be invalid by reason only of those acts, decisions or proceedings being inconsistent with the *Public Authorities Law, 2017 [Law 21 of 2017]*.



SCHEDULE

(section 3(4))

CONSTITUTION AND PROCEDURE OF THE AUTHORITY

1. Appointed members shall, subject to this Schedule, be eligible for reappointment.
2. An *ex officio* member may, in case of inability to attend a meeting, designate a delegate to attend that meeting on the *ex officio* member's behalf.
3. The relevant Minister or Official Member may appoint any person to act temporarily in the place of an appointed member, in case of that appointed member's absence or inability to act.
4. Appointed members may, at any time, resign their office by instrument in writing addressed to the relevant Minister or Official Member, and such shall take effect as from the date of receipt of such instrument by the relevant Minister or Official Member.
5. The Cabinet may terminate the appointment as a member of the Authority at any time if it is satisfied that —
 - (a) the member is not fulfilling the mandate of the Authority set by Cabinet;
 - (b) the member has, in the opinion of the Cabinet, an unacceptable conflict of interest; (c) the member's conduct is detrimental to the effective governance of the Board;
 - (d) the member has been absent from three consecutive meetings of the Board without the consent of the Chairperson of the Board;
 - (e) the member's conduct brings the Authority into disrepute;
 - (f) the member becomes bankrupt; or
 - (g) the member is convicted of an offence for which the member is sentenced by a court to a term of imprisonment.
6. The Authority shall meet at least once every three months and also at such other times as may be convened by the Chairperson, and all such meetings shall be held at such places and times and on such days as the Chairperson may determine.
7. If the Chairperson is absent from a meeting, the other members present at the meeting shall elect one of their number to preside thereat as Chairperson.
8. The quorum of the Board shall be a simple majority of the board members who are entitled to vote.

9. The decisions of the Board shall be determined by a simple majority of those board members who are entitled to vote and who are present at the board meeting, except that in the case of an equality of votes at any meeting, the Chairperson at that meeting shall have a second or casting vote.
10. Minutes shall be confirmed by the Chairperson as soon as practicable at the next subsequent meeting.
11. The validity of any proceedings shall not be affected by any vacancy amongst the members or by any defect in the appointment of any member.
12. The Authority shall have the power to co-opt any person whom it considers able to assist it in its deliberations and any person so co-opted shall be deemed to be a member for so long as that person is co-opted, save that that person shall have no vote and shall not be counted for the purposes of constituting a quorum.
13. The members of the Authority who are not public officers shall be paid such emoluments as may be determined by the relevant Minister or Official Member.
14. In this Schedule —
 “**Chairperson**” includes a person appointed or elected, as the case may be, to act temporarily in place of the Chairperson.
15. Any member having a personal interest in any matter under consideration by the Authority shall immediately declare such interest and shall refrain from taking part in any relevant determination by the Authority.
16. Subject to this Schedule, the Authority shall have power to regulate its own proceedings.

Publication in revised and consolidated form authorised by the Cabinet this 11th day of January, 2022.

Kim Bullings
Clerk of the Cabinet



ENDNOTES

Table of Legislation history:

SL #	Law/Act #	Legislation	Commencement	Gazette
84/2021		Water Authority (Amendment) Act, 2018 (Commencement) Order, 2021	2-Dec-2021	LG69/2021/s1
	56/2020	Citation of Acts of Parliament Act, 2020	3-Dec-2020	LG89/2020/s1
	14/2018	Water Authority (Amendment) Law 2018	1-Jan-2022	G17/2018/s12
		Water Authority Law (2018 Revision)	28-Mar-2018	GE28/2018/s8
		Water Authority (Amendment) Act, 2017 (Commencement) Order, 2017	22-May-2017	GE11/2017/s3
	17/2017	Water Authority (Amendment) Law, 2017	22-May-2017	GE39/2017/s3
		Water Authority Law (2011 Revision)	21-Nov-2011	G24/2011/s16
		Water Authority (Amendment) Act, 2011 (Commencement) Order, 2011	26-May-2011	GE42/2011/s3
	4/2011	Water Authority (Amendment) Law, 2011	27-May-2011	G4/2011/s4
		Water Authority Law (1996 Revision)	6-Jan-1997	G1/1997/s6
	2/1995	Water Authority (Amendment) Law, 1995	16-May-1995	G10/1995/s3
	20/1990	Miscellaneous Laws (Amendment) Law, 1990 (part)	22-Oct-1990	G22/1990/s7
	20/1986	Notaries Public (Amendment) Law, 1986	19-Jan-1987	G2/1987/s4
	18/1982	Water Authority Law, 1982	18-Apr-1983	G8/1983/s4

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