THE WATER SUPPLY AND SANITATION SERVICES BILL, 2026

MEMORANDUM

The objects of this Bill are to —

(a) continue the existence of the National Water Supply and Sanitation Council and re-define its functions;

(b) constitute the Board of the Council and provide for its functions;

(c) provide for the regulation of water supply and sanitation services;

(d) provide for the licensing of utilities;

(e) promote access to sustainable water supply and sanitation services;

(f) repeal and replace the Water Supply and Sanitation Act, 1997; and

(g) provide for matters connected with, or incidental to, the foregoing.

M. D. KABESHA,
Attorney-General

N.A.B. 2, 2026
3rd February, 2026

THE WATER SUPPLY AND SANITATION SERVICES BILL, 2026

ARRANGEMENT OF SECTIONS

Sections

PART I

PRELIMINARY PROVISIONS

1. Short title and commencement
2. Interpretation
3. Principles of water supply and sanitation services
4. Responsibilities of local authorities

PART II

THE NATIONAL WATER SUPPLY AND SANITATION COUNCIL

5. Continuation of Council
6. Functions of Council
7. Constitution of Board
8. Functions of Board
9. Delegation of functions
10. Constitution of Technical Advisory Committee
11. Director General and other staff

PART III

ESTABLISHMENT AND LICENSING OF UTILITIES

12. Establishment of utility
13. Prohibition of providing water supply and sanitation services without licence
14. Application for licence
15. Validity of licence and annual fee
16. Suspension or cancellation of licence
17. Amendment of licence
18. Display of licence
19. Transfer of licence
20. Duplicate Licence
21. Appointment of statutory manager

PART IV

FUNCTIONS AND POWERS OF UTILITIES

22. Functions of utility
23. Power to carry out works on roads and related infrastructure
24. Compulsory acquisition of land for water supply and sanitation services
25 Power to reduce levels of service and declaration of emergency

PART V

SERVICE PROVIDERS

26. Agreement to operate as service provider
27. Prohibition of developer providing water supply and sanitation services without agreement

PART VI

TARIFFS, RATES, FEES OR CHARGES

28. Criteria for determining tariffs, rates, fees or charges
29. Prohibition of levying tariffs, rates fees and charges without approval
30. Approval of tariffs, rates, fees and charges
31. Use of tariffs by service provider

PART VII

WATER AND SANITATION FACILITIES

32. Construction of facilities and consultation
33. Extent of construction and maintenance of facility
34. Right over private water supply or sewerage facilities installation
35. Damage to water works or sanitation works
36. Compensation for damage

PART VIII

WATER SUPPLY AND SANITATION TRIBUNAL

37. Appeal from decision of Council
38. Tribunal
39. Powers of tribunal

40. Decision of tribunal
41. Funding and allowances of tribunal
42. Secretariat of Tribunal

PART IX

INSPECTORATE

43. Inspectors
44. Powers of entry, search and inspection
45. Restoration of property

PART X

GENERAL PROVISIONS

46. Maps of water works and sanitation works
47. Monetary penalties
48. Disconnection of water or sewer service connection
49. Unauthorised connections
50. Disconnection or separation of common water or sewer service connection
51. Request to separate from common water connection
52. Enforcement notice
53. Easement
54. Register
55. Publication of copies of register
56. Offences relating to bathing or washing in water works area, sanitation works or vessel
57. Offences relating to water pollution
58. Offences relating to erecting structure, occupying or residing in water works area or sanitation works
59. Immunity from execution of judgement against Council's assets
60. Offences relating to entry in water works area or sanitation works, etc.
61. General offences
62. General penalty
63. Administrative penalty

64. Offences by principal officers of body corporate or unincorporated body 65. Prohibition of publication or disclosure of information to unauthorised person

66. Guidelines

67. Regulations

68. Repeal of Cap.180 and savings and transitional provisions

SCHEDULES

A BILL

ENTITLED

An Act to continue the existence of the National Water Supply and Sanitation Council and re-define its functions; constitute the Board of the Council and provide for its functions; provide for the regulation of water supply and sanitation services; provide for the licensing of utilities; promote access to sustainable water supply and sanitation services; repeal and replace the Water Supply and Sanitation Act, 1997; and provide for matters connected with, or incidental to, the foregoing.

ENACTED by the Parliament of Zambia. Enactment

PART I

PRELIMINARY PROVISIONS

1. This Act may be cited as the Water Supply and Sanitation Services Act, 2026, and shall come into operation on the date appointed by the Minister, by statutory instrument. Short title and commencement

Interpretation

2. In this Act, unless the context otherwise requires —

"appropriate authority" means a public body, or person, having power under any other written law relating to water supply or sanitation services and includes a public or statutory office, person, body or institution having power under the —

Cap.281 *(a)* Local Government Act;

Cap.184 *(b)* Lands Act;

Cap.198 *(c)* Water Resources Management Act;

Cap.204 *(d)* Environmental Management Act;

Cap. 466 *(e)* Inland Waters Shipping Act;

Cap. 295 *(f)* Public Health Act;

Cap.303 *(g)* Food Safety Act;

Cap.416 *(h)* Standards Act;

Cap.417 *(i)* Competition and Consumer Protection Act;

Cap.283 *(j)* Urban and Regional Planning Act;

Cap.132 *(k)* Disaster Management Act;

Act No. 18 of 2023 *(l)* Public Private Partnership Act, 2023;

Act No.17 of 2022 (m) Zambia Development Agency Act, 2022;

Cap.464 (n) Road Traffic Act; or

Cap.181 *(o)* Solid Waste Regulation and Management Act;

"appurtenances" means pipes, cisterns, cocks, fittings and other similar appliances, structures or equipment, other than meters, through which water flows or which are intended to be used for the purpose of supplying water from water works or other water storage facilities or for conveyance of sewage;

"authorised person" means an employee or agent of the Council;

"Board" means the Board of the Council constituted under section 7;

"building sewer" means a pipe that carries sewage from outside the wall of a building to a public sewerage system;

"Chairperson" means the person appointed as Chairperson of the Board under section 7;

"Committee" means the Technical Advisory Committee constituted under section 10;

"Competition and Consumer Protection Commission" means the Competition and Consumer Protection Commission established under the Competition and Consumer Protection Act; Cap.417

"connection" means appurtenances or sewerage services to a consumer from water works or sewerage systems;

"consumer" includes a person, institution or organisation —

(a) supplied or applying to be supplied with water or using water from water works;

(b) receiving services or sanitation;

(c) liable for payment of a fee or other charge for the supply or use of water or sanitation services;

"containment" means a facility used for storage or treatment of faecal sludge;

"Council" means the National Water Supply and Sanitation Council continued under section 5;

"developer" means a person who develops a gated community, housing estate, office complex, shopping complex, economic zone, industrial park, mine, recreation park or similar property;

"Director-General" means the person appointed as Director-General of the Council under section 11;

"domestic or non commercial use" includes the use of water for —

(a) drinking, cooking, washing, bathing or sanitation;

(b) subsistence farming;

(c) the making of bricks for private use of the owner or occupier; or

(d) firefighting;

"easement" means the right to enter and use the land of another person that may be necessary for the purpose of, or for a purpose incidental to —

(a) constructing, operating or maintaining water works or sanitation facilities; or

(b) the exercise or enjoyment of an entitlement conferred under this Act or any other written law;

"emergency" means an event, actual or imminent, which endangers or threatens to endanger life, property or the environment;

Cap.1

"Emoluments Commission" means the Emoluments Commission established under the Constitution;

"enforcement notice" means an enforcement notice issued by the Council under section 52;

"essential use" means use of water for public health, sanitation, domestic or non-commercial purposes;

"facility" means a structure, system, appurtenance, plant or equipment, whether located on private or public property, that is necessary for the provision of water or sanitation services to a consumer by a local authority, utility or service provider;

"faecal sludge" means human excreta in dry or wet form removed from an onsite sanitation containment;

"gated community" means a residential community of at least one hundred persons, domiciled in an area of defined boundary or perimeter, with various shared amenities;

"housing estate" means a group of at least fifty houses, apartments and other buildings built together as a single development with or without commercial facilities;

"international agreement" has the meaning assigned to the words in the Ratification of International Agreements Act;

Cap.18

"law enforcement officer" means —

(a) a police officer;

(b) an officer of the Drug Enforcement Commission; and

(c) any other person the Minister may, by statutory instrument, appoint;

"legally disqualified" means the absence of legal capacity as provided under section 4 of the Mental Health Act;

Cap.305

"licence" means a licence issued under section 14;

"local authority" has the meaning assigned to the words in the Constitution;

Cap.1

"mains" includes a water-pipe or sewer owned and maintained by a utility;

Cap.429

"meter" means an appliance, apparatus or device used to measure or ascertain the rate of flow or the amount of water taken or used from water works, and includes a meter box, meter box cover or indicator marking the position and size of the meter;

"non-essential use" means use of water for irrigation, watering of lawns or athletic fields, ornamental purposes, operating of decorative fountains and ponds, maintenance of swimming pools, washing of vehicles, parking lots, building or the general use of water for purposes other than for essential use;

"non-potable water" means untreated water which is unsafe for human consumption;

"occupier" means a person who, in relation to land or premises, is in actual occupation of, or responsible for managing, the land or premises;

"on-site sanitation system" means a facility designed to hold, treat or dispose of human excreta, wastewater or other effluent on the same property that produces the human excreta, wastewater or other effluent, and the words "on site sanitation" shall be construed accordingly;

"owner" means the owner of a property or a person receiving rent for a particular property, whether on that person's own account or as an agent or trustee of another person;

"potable water" means treated water which is safe for human consumption;

"public company" has the meaning assigned to the words in the Companies Act; Cap.388

"public-private partnership" has the meaning assigned to the words in the Public-Private Partnership Act, 2023; Act No.18 of 2023

"private company" has the meaning assigned to the words in the Companies Act; Cap. 388

"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 for —

(a) on-site sanitation; or

(b) other private purposes, not being part of a public sewerage system;

"private sewerage installation" includes a privately constructed latrine, septic tank or other private sewer and all facilities but does not include a building sewer;

"private water supply" means a water supply facility not owned by a utility or local authority;

"property" means a structure, building or part of a building, and includes land with or without buildings which is held or occupied as a distinct or separate holding or tenancy, or any other land which, in collaboration with the local authority, has been reserved for purposes of future development or expansion of water supply or sanitation services;

"public sewerage system" means a sewerage system owned and operated by a local authority or utility;

"public tap" means a fountain, standpipe, tap, trough, valve or other appliance or structure erected, provided or maintained by or on behalf of a local authority, utility or service provider for the purpose of supplying water to two or more households;

"register'' means the register kept and maintained by the Council under section 54;

Cap.180 "repealed Act" means the Water Supply and Sanitation Act repealed under section 68;

Cap.472 "road" has the meaning assigned to the word in the Public Roads Act;

"sanitation" means the hygienic means of promoting health through prevention of human contact with the hazards of water and the provision of facilities and services for the safe collection, treatment and disposal of human excreta, wastewater or other effluent;

"sanitation services" means the —

(a) disposal, on site or off site, of human excreta, wastewater or other effluent;

(b) collection of sewage, excluding untreated toxic waste and storm water, from residential, commercial or industrial sources; or

(c) treatment and disposal of human excreta, wastewater and other effluent, in accordance with this Act and the standards established under the Standards Act, the Public Health Act, the Environmental Management Act, or any other written law;

Cap.416
Cap.295
Cap.204

"sanitation works" means sewers, drains, pipes, sewage pump stations, treatment plants, ducts or channels, whether open or closed, used for the drainage and treatment of human excreta, wastewater or other effluent from a property or an on site sanitation system;

"service area" means an area in which a utility is mandated, under a condition of a licence, to supply water and sanitation services;

"service level agreement" means an agreement entered into between the Council and a utility which stipulates the service level benchmarks that the utility should achieve in a specified period;

"service level guarantee" means an agreement entered into between the Council and a utility that stipulates the minimum level of service that the utility must offer to its customers;

"service provider" means a person who has an agreement with a licensed utility to provide water supply or sanitation services under this Act and includes a local authority;

"sewage" means wastewater consisting of human excreta, sullage, pre treated industrial or trade effluent;

"sewer" means a pipe or conduit, other than a drain, for the conveyance of sewage;

"sewerage system" means a system of sewers through which sewage moves from its point of origin to another place so that it can be treated and disposed of, and includes a sewage treatment plant;

"sullage" means wastewater from household sinks, showers and bath tubs and excludes human excreta;

"standard" means a specification or code of practice designed to regulate the —

(a) nature, strength, purity, composition, quantity, dimensions, weight, grade, durability, origin, age or other characteristics of water, waste or wastewater; or

(b) material or substance from which a thing may be produced, manufactured, processed, treated or finished from water, waste or wastewater;

"statutory manager" means a person appointed by the Council as a statutory manager for a utility under section 21;

"trade effluent" means water or liquid which has been used for medical, trade or industrial purposes and, as a result of such use, has been polluted within or beyond the prescribed limits in relation to the physical, chemical and microbiological characteristics before being discharged into the public sewerage system;

"trade waste agreement" means an agreement between a utility and a person for the discharge of waste into a sewer or waste treatment facility operated by the utility;

"tribunal" means an *ad hoc* tribunal appointed and convened under section 38;

"utility" means a water supply and sanitation utility established in accordance with section 12;

"Vice-Chairperson" means the person elected as Vice-Chairperson of the Board under section 7;

"waste" means any matter whether liquid, solid or gaseous which is discharged, emitted or deposited into a sewerage system;

"wastewater" means water which has been used for domestic, institutional, trade or industrial purposes and as a result of that use, may cause pollution of the environment when discharged untreated into the environment;

"water supply" means the provision of appropriate facilities and services for the sourcing, treatment and distribution of potable water or water;

"water works" includes all gathering grounds, off-takes, reservoirs, dams, weirs, tanks, cisterns, tunnels, filter beds, conduits, aqueducts, mains, pipes, meters, fountains, sluices, valves, hydrants, pumps, prime movers and other structures or appliances used or constructed for the storage, conveyance, supply, measurement or regulation of water which are used or have been constructed by or on behalf of a utility or service provider; and

"water works area" means an area of land or water delineated by an appropriate authority as an area connected with the supply of water or sanitation services.

Principles of water supply and sanitation services

3. (1) The following principles apply to water supply and sanitation services:

(a) protection of the environment and prudent use of water, taking into account present and future generations;

(b) development and promotion of public health through sustainable and safe sanitation;

(c) protection of the interests of consumers through effective participation of citizens in the management and decision-making process for water supply and sanitation services;

(d) ensuring affordable, reliable and sustainable water supply and sanitation service delivery;

(e) ensuring that the full costs of operation, maintenance and capital costs for the provision of water supply and sanitation services are recovered from consumers;

(f) promotion of public-private partnerships in the provision of water supply and sanitation services; and

(g) promotion of multi-stakeholder partnerships for improved water stewardship.

(2) A person exercising any power under this Act or any other written law that affects the provision of water supply and sanitation services shall promote access by persons in the Republic to basic water supply and sanitation services.

Responsibilities of local authorities

4. (1) Despite any other written law and subject to the other provisions of this Act, a local authority shall provide water supply and sanitation services, within an area under the local authority's jurisdiction, through a utility established in accordance with section 12(1).

(2) Subject to any other written law, a local authority may, within an area under the local authority's jurisdiction, make by-laws to give effect to the efficient and sustainable provision of water supply and sanitation services.

(3) A local authority may delegate the enforcement of the by- laws made under subsection (2), to a utility or another service provider.

(4) A local authority shall, in collaboration with a utility or relevant regulatory authority, implement measures to protect and preserve the integrity of water resources and infrastructure for water supply and sanitation by —

(a) reserving or allocating land for the development of water supply and sanitation facilities;

(b) prohibiting the allocation of land or development in the wayleaves and any other area reserved for water supply and sanitation infrastructure; and

(c) ensure the effective management of waste.

(5) A local authority shall ensure that on-site sanitation facilities are constructed in accordance with prescribed standards.

PART II

THE NATIONAL WATER SUPPLY AND SANITATION COUNCIL0

Continuation of Council

5. (1) The National Water Supply and Sanitation Council established under the repealed Act is continued as if established under this Act as a body corporate with perpetual succession and a common seal, capable of suing and of being sued in its corporate name and with power, subject to the provisions of this Act, to do all acts and things that a body corporate may, by law, do or perform.

(2) The First Schedule applies to the Council.

Functions of Council

6. (1) The functions of the Council are to regulate the provision of water supply and sanitation services in the Republic.

(2) Despite the generality of subsection (1), the functions of the Council are to —

(a) licence a utility;

(b) approve tariffs, rates, fees and charges for the provision of water supply and sanitation services;

(c) ensure that a utility holds public consultations on proposed tariffs, rates, fees, charges and other related matters that the Council may determine, except during an emergency;

(d) enter into service level agreements and service level guarantees with a utility;

(e) advise a local authority on viable institutional arrangements for the provision of water supply and sanitation services;

(f) monitor the performance of a utility to ensure compliance with this Act and in relation to —

(i) levels of investment;

(ii) availability and standards of water supply and sanitation services;

(iii) the efficiency and provision of water supply and sanitation services; or

(iv) any other matter relating to water supply and sanitation services;

(g) disseminate information to the public on matters relating to water supply and sanitation services;

(h) collaborate with Government institutions and other relevant regulatory authorities to ensure adequate provision of water supply and sanitation services;

(i) establish and enforce standards for water supply and sanitation services and the management of a utility;

(j) prescribe procedures for handling complaints from consumers against a utility or service provider;

(k) develop and enforce guidelines relating to water supply and sanitation services;

(l) advise the Minister on matters relating to water supply and sanitation services; and

(m) perform any other functions relating to the regulation of the provision of water supply and sanitation services under this Act.

(3) The Council may, in the performance of its functions —

(a) direct a utility to provide water supply and sanitation services in a manner that ensures compliance with this Act;

(b) direct a utility to submit information and records that are necessary to enable the Council to perform its functions under this Act;

(c) impose restrictions and sanctions for non-compliance on a utility as may be prescribed under this Act;

(d) suspend, until remedial measures are taken, operations of a facility if on the assessment of the Council the facility is found to be a danger to public health or the environment;

(e) constitute consumer watch groups to enhance transparency, accountability and participation in the provision of water supply and sanitation services;

(f) compel a utility to comply with standards and regulations relating to the provision of water supply and sanitation services, prescribed under this Act or any other written law; or

(g) supervise the management of an emergency declared under this Act in collaboration with relevant regulatory authorities.

Constitution of Board

7. (1) There is constituted the Board of the Council which consists of the following part-time members appointed by the Minister:

(a) a representative of the ministry responsible for —

(i) local government; and

(ii) water and sanitation;

(b) a representative of the Attorney-General;

(c) a representative of the Competition and Consumer Protection Commission;

(d) a representative of the Zambia Chamber of Commerce and Industry;

(e) a representative of a registered professional body relating to water, sanitation and hygiene; and

(f) one person from the private sector with relevant knowledge and experience in matters relating to public health.

(2) The members referred to under subsection (1)*(a)* to *(e)* shall be nominated by their respective ministries, institutions or organisations for appointment by the Minister.

(3) The members shall elect a Chairperson and Vice-Chairperson from among themselves.

(4) Despite subsection (3), the members referred to under subsection (1)*(a)* and *(b)* are not eligible for election as Chairperson or Vice-Chairperson.

(5) A person shall not be nominated or appointed as a member of the Board if that person—

(a) is not a citizen;

(b) is an undischarged bankrupt;

(c) is legally disqualified from performing the functions of a member;

(d) is a member of a board, an employee, a shareholder, or person responsible for the management or operation, of a utility or service provider;

(e) is convicted of an offence involving fraud or dishonesty; or

(f) is convicted of an offence under this Act or any other written law and sentenced to imprisonment for a term exceeding six moths without the option of a fine.

(6) The First Schedule applies to the Board.

Functions of Board

8. (1) Subject to the other provisions of this Act, the Board shall provide strategic policy direction to the Council.

(2) Despite the generality of subsection (1), the functions of the Board are to —

(a) approve the policies, programmes and strategies of the Council;

(b) approve the annual budget estimates and financial statements of the Council;

(c) approve the annual work plans, action plans and activity reports of the Council;

(d) monitor and evaluate the performance of the Council against budgets and plans; and

(e) promote the effective corporate governance of the Council.

(3) The Minister may enter into performance contracts with the Board, for a specific period, which shall be consistent with the provisions of the Act.

(4) The Minister may give the Board general or specific directions relating to the performance of its functions and the Board shall give effect to those directions to the extent that the directions are not inconsistent with this Act.

Delegation of functions

9. (1) The Board may, by direction in writing and on conditions that the Board considers

necessary, delegate to the Director-General any of the Board's functions under this Act.

(2) A delegation made under subsection (1) shall not prevent the Board from performing the function so delegated.

Constitution of Technical Advisory Committee

10. (1) The Board shall constitute a Technical Advisory Committee consisting of five part-time members who are experts in the fields relevant to the provision of water supply and sanitation services.

(2) The functions of the Committee are to advise the Board on —

(a) formulation of policies, standards, guidelines and rules relating to water supply and sanitation services, and water and wastewater management;

(b) water conservation efficiency, sustainability of water use, waste and wastewater re-use; and

(c) any other matter necessary for the efficient provision of water supply and sanitation services.

(3) The members shall elect the chairperson and vice- chairperson of the Committee from among themselves.

(4) A person shall not be nominated or appointed as a member of the Committee if that person is —

(a) not a citizen;

(b) an undischarged bankrupt;

(c) legally disqualified from performing the functions of a member;

(d) convicted of an offence involving fraud or dishonesty; or

(e) convicted of an offence under this Act or any other written law and sentenced to imprisonment for a term exceeding six months without the option of a fine.

(5) The First Schedule applies to the Committee.

Director General and other staff

11. (1) The Board shall appoint a Director-General who shall be —

(a) the chief executive officer of the Council; and

(b) responsible for the day to day administration of the Council under the direction of the Board.

(2) The Director-General shall attend meetings of the Board or a committee of the Board and may address those meetings, but shall have no vote.

(3) The Board shall appoint a Secretary who shall perform corporate secretarial duties for the Board and other functions that the Board may determine, under the direction of the Board and the Director-General.

(4) The Board shall appoint other staff of the Council that the Board considers necessary for the performance of the Council's functions.

(5) The Emoluments Commission shall, on the recommendation of the Board, determine the emoluments of the Director-General, Secretary and other staff of the Council.

(6) The Board shall determine the terms and conditions of service, other than emoluments, of the Director-General, Secretary and other staff of the Council.

PART III

Establishment and Licensing of Utilities

Establishment of utility

12. (1) local authority may, on its own or with another local authority, establish a public company or private company as a utility.

(2) A local authority shall own the majority of the shares in a utility established under subsection (1).

(3) Despite subsection (2), where a local authority establishes a utility with another local authority, the aggregate of the shares of the local authorities shall be in the majority.

(4) The articles of association of a utility referred to under subsection (1) shall state the primary business of the utility as the provision of water supply and sanitation services.

(5) A utility established under subsection (1) may enter into a joint venture or partnership with an individual, a private company, public company or any other entity for purposes of providing water supply and sanitation services.

Prohibition of providing water supply or sanitation services without licence

13. (1) A utility shall not provide water supply or sanitation services without a licence issued under this Act.

(2) A utility that contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding one million penalty units.

Application for licence

14. (1) A utility that intends to provide water supply or sanitation services shall apply to the Council for a licence in the prescribed manner and form on payment of a prescribed fee.

(2) The Council shall, within thirty days of receipt of an application under subsection (1), grant or reject the application.

(3) The Council shall, where a utility satisfies the prescribed requirements, issue to the applicant a licence in a prescribed manner and form.

(4) The Council shall, where the Council rejects an application in accordance with subsection (2), inform the applicant, in writing, stating the reasons for the rejection.

(5) Where the Council fails to inform an applicant of the Council's decision on the application within the period specified under subsection (2), the application shall be deemed to have been granted and a licence shall be issued to the applicant.

Validity of licence and annual fee

15. (1) A licence issued under this Act, shall remain valid unless surrendered, suspended or cancelled.

(2) A utility that is granted a licence under section 14 shall pay an annual fee, as prescribed.

Suspension or cancellation of licence

16. (1) Subject to this Act, the Council shall suspend or cancel a licence, where the holder of a licence —

(a) does not meet the prescribed requirements in accordance with section 14(3);

(b) fails to commence the business for which the licence was issued within twelve months of obtaining the licence;

(c) has engaged in financial mismanagement;

(d) fails, without reasonable cause, to comply with an enforcement notice;

(e) obtained the licence through fraud, misrepresentation or concealment of a material fact; or

(f) contravenes any provision of this Act or terms and conditions of a licence.

(2) The Council shall, before suspending or cancelling a licence in accordance with subsection (1), notify the holder of the licence, in writing, of the Council's intention to suspend or cancel the licence and shall —

(a) give reasons for the intended suspension or cancellation; and

(b) require the holder of the licence to show cause, within a period that the Council may determine, why the licence should not be suspended or cancelled.

(3) The Council shall not suspend or cancel a licence under this section if the holder of the licence takes remedial measures to the satisfaction of the Council within the period specified by the Council under subsection (2)*(b)*.

(4) The Council shall, in making the Council's final determination on the suspension or cancellation of a licence consider the submissions made by the holder of a licence under subsection (2).

(5) The Council shall suspend or cancel a licence if the holder of the licence, having been notified in accordance with subsection (2), does not —

(a) show cause to the satisfaction of the Council why the licence should not be suspended or cancelled; or

(b) take remedial measures to the satisfaction of the Council within the period specified in subsection (2) *(b)*.

(6) A holder of a licence that is cancelled shall, within thirty days of being notified of the cancellation, surrender the licence to the Council.

(7) A utility that contravenes subsection (6) or provides water supply or sanitation services after the suspension or cancellation of its licence commits an offence and is liable, on conviction, to a fine not exceeding three hundred thousand penalty units.

(8) The Council shall, where the Council suspends or cancels a licence under this section, publish the suspension or cancellation in a daily newspaper of general circulation in the Republic or electronically on the Council's website or portal.

Amendment of licence

17. (1) A holder of a licence shall, where the holder of a licence intends to amend a licence, apply to the Council in the prescribed manner and form on payment of a prescribed fee.

(2) The Council shall, within sixty days of receipt of an application referred to under subsection(1), grant or reject the application.

(3) The Council shall, where the Council grants an application referred to under subsection(2), issue the applicant with an amended licence in a prescribed form.

(4) The Council shall, where the Council rejects the application referred to under subsection (2), inform the applicant, in writing, stating the reasons for the rejection.

Display of licence

18. A licensee shall display a licence issued under this Act in a conspicuous place at the licensee's place of business.

Transfer of licence

19. (1) A licence issued under section 14 shall not be transferred to a third party without the approval of the Council.

(2) A person who contravenes subsection (1) commits an offence.

Duplicate licence

20. (1) A holder of a licence whose licence is destroyed or lost may apply to the Council for a duplicate licence in a prescribed manner and form on payment of a prescribed fee.

(2) The Council may, within fourteen days of receipt of an application under subsection (1), issue a duplicate licence to the applicant.

Appointment of statutory manager

21. (1) The Council shall, where a licence is suspended or cancelled in accordance with section 16, appoint a statutory manager to manage the operations of a utility on terms and conditions that the Council may determine.

(2) The board of a utility shall, where a licence of a utility is suspended or cancelled in accordance with section 16, be —

(a) in the case of cancellation, dissolved; or

(b) in the case of a suspension, suspended until remedial measures are implemented to the satisfaction of the Council.

(3) A statutory manager shall be appointed by the Council for a period of six months and the period of appointment may be extended for a further period not exceeding six months, on terms and conditions that the Council may determine.

(4) A statutory manager shall, on a monthly basis during the statutory manager's term of appointment, report to the Council on all matters relating to the utility under the statutory manager's management and control.

(4) The expenses relating to the appointment of a statutory manager and the management of a utility shall be a charge on the revenues of a utility for which the statutory manager is appointed.

(5) An agreement entered into between a utility whose licence is suspended or cancelled and a service provider shall be implemented by the statutory manager.

(6) The appointment of a statutory manager shall not affect the rights and liabilities of a utility as a company.

PART IV

Functions And Powers of Utilities

Functions of utility

22. (1) The functions of a utility are to provide safe and sustainable water supply and sanitation services within the utility's service area.

(2) Despite the generality of subsection (1), the functions of a utility are to —

(a) supply potable water and monitor it's quality in accordance with this Act or any other written law;

(b) supply non-potable water to persons who request for the non-potable water;

(c) collect, transport, treat and safely dispose of wastewater and faecal sludge;

(d) monitor the quality of effluent and sludge from sanitation works in accordance with this Act or any other written law;

(e) develop, operate and manage water works and sanitation works;

(f) plan and implement projects for the provision of water supply and sanitation services;

(g) promote public awareness and provide information on public health, water supply, water conservation and sanitation;

(h) provide information on the rights and obligations of consumers in relation to water supply and sanitation services;

(i) propose tariffs, rates or charges for water supply and sanitation services for approval by the Council;

(j) provide auxiliary facilities that are necessary to support water supply and sanitation services; and

(k) protect and preserve water supply and sanitation works.

(3) A utility referred to under this Part shall, comply with service level guarantees, including the service indicators, rules and guidelines issued by the Council.

(4) A utility may —

(a) access land, subject to an agreement with an owner of the land, for purposes of laying a water or sewer line, installing a public tap or any other installation necessary for the provision of water supply and sanitation services;

(b) install a water meter on a property;

(c) levy tariffs, rates, fees and charges approved by the Council for water supply and sanitation services;

(d) enter into an agreement with an owner or occupier of land or appropriate authority for purposes of collecting, conveying or preserving the purity of water that the utility is authorised to abstract on the land;

(e) restrict, diminish, withhold or suspend the supply of water as the Council may determine;

(f) enter into a water supply, sanitation or trade waste agreement with a service provider on terms and conditions that may be agreed on by the parties; and

(g) enter a property of a consumer for purposes of providing water supply and sanitation services.

Power to carry out works on roads and related infrastructure

23. (1) A utility or service provider may acquire from a local authority or appropriate authority the right to cut across, under, or along a road to place, replace, repair, alter or remove facilities.

(2) A utility or service provider shall, twenty-eight days before exercising the powers conferred under subsection (1), give notice, in writing, to a local authority or appropriate authority and to any affected person of the utility's intention to exercise the powers under subsection (1), except that in the case of an emergency the utility or service provider may give shorter notice.

(3) The powers conferred under subsection (1) shall be exercised by a utility or service provider under the supervision of a local authority or appropriate authority, except that where the local authority or appropriate authority fails to provide supervision , the utility or service provider may exercise the powers without supervision.

(4) A utility or service provider shall, where the utility or service provider exercises the powers conferred under subsection (1) without supervision, comply with any by laws and regulations of a local authority or any other relevant written law, and shall ensure that —

(a) the works are barricaded at all times when exercising the powers under subsection (1);

(b) adequate lighting is provided during the night when exercising the powers under subsection (1); and

(c) any road or place opened up, broken up or obstructed is reinstated and any refuse resulting from the work is removed.

(6) A local authority or appropriate authority shall, where a utility or service provider fails to comply with by laws and regulations referred to under subsection (4), complete the work undertaken when exercising the powers conferred under subsection (1), that have not been completed at the expense of the utility or service provider.

Compulsory acquisition of land for water supply and sanitation services

24. (1) The President may, in accordance with the Lands Acquisition Act, compulsorily acquire land, for the purposes of providing water supply and sanitation services by a utility.

(2) The President shall, before compulsorily acquiring land under subsection (1), be satisfied that —

(a) the acquisition of the land is for the purposes of providing water supply or sanitation services by a utility; and

(b) a utility has taken all reasonable steps to acquire the land intended to be used, for the purposes of providing water supply or sanitation services, which steps have failed.

(3) The President may, where the land acquired in accordance with subsection (1) by a utility has not been used for the purpose of providing water supply or sanitation services, direct that the land be reverted to the previous owner of the land. Cap.189

Powers to reduce levels of service and declaration of emergency

25. (1) A utility may, where there is a shortfall of water supply due to conditions outside the control of a utility or during maintenance of facilities —

(a) ration water supply;

(b) restrict hours of water supply;

(c) restrict the volume of water supply;

(d) terminate water supply for non essential use;

(e) levy additional consumption charges for non-essential use;

(f) revise the tariffs, rates, fees or charges for non-essential use; or

(g) adjust normal operating procedures.

(2) Despite subsection (1), a utility shall seek prior approval of the Council before implementing subsection (1)*(d), (e)* and *(f).*

(3) An adjustment of normal operating procedures by a utility under subsection (1)*(g),* shall be designed in the following order of priority:

(a) safeguarding public health; and

(b) maintaining domestic or non-commercial use, commercial use and industrial use.

(4) A utility shall, prior to adjusting the normal operating procedures referred to under subsection (1)*(g),* notify the —

(a) Council;

(b) local authority in the affected service area; and

(c) consumers in the affected service area.

(5) Despite subsection (4), a utility shall, where there is an emergency that threatens public health, immediately shut down a facility and thereafter notify the Council, local authority and consumers in the affected service area.

(6) Consumers who have been notified under subsection (4)*(c),* are not entitled to compensation for any inconvenience caused by the loss of water supply as a result of a utility adjusting normal operating procedures.

(7) Despite subsections (1), (2), (3) and (4), the Minister may, on the recommendation of the Council, by notice in the *Gazette* and a daily newspaper of general circulation in the Republic, or electronic media —

(a) declare an emergency in relation to the provision of water supply or sanitation services; and

(b) prescribe measures that may be taken by relevant stakeholders to preserve public health and safety; or

(c) cancel a declaration made under paragraph *(a)* where the declaration of emergency is no longer necessary.

PART V

SERVICE PROVIDERS

Agreement to operate as service provider

26. (1) A developer or other person who intends to operate as a service provider may request a utility to enter into an agreement with that developer or other person to operate as a service provider in a service area or unserviced area, identified by the developer, the utility or other person.

(2) A utility may, on receipt of the request referred to under subsection (1) and where the developer or other person meets the prescribed conditions, enter into an agreement referred to in that subsection with the developer or other person for the provision of water supply or sanitation services in an identified service area or unserviced area.

(3) A developer or other person referred to under subsection (1), may enter into an agreement with more than one utility for the purposes of provision of water supply or sanitation services.

(4) A utility shall inspect the area of operation of a developer or other person operating as a service provider to ensure compliance with the agreement.

(5) Despite subsection (1), a utility shall not enter into an agreement with a person to provide water supply or sanitation services solely for that person's own use as prescribed.

Prohibition of developer providing water supply and sanitation services without agreement

27. (1) A developer or other person shall not, without a written agreement with a utility, operate as a service provider in a service area or unserviced area.

(2) A developer or other person who contravenes subsection (1), commits an offence and is liable, on conviction, to a fine not exceeding three hundred thousand penalty units.

(3) In addition to the penalty under subsection (2), the court may —

(a) compel a developer or other person to enter into an agreement with a utility; or

(a) order a developer or other person to cease to provide water supply or sanitation services.

PART VI

Tariffs, Rates, Fees or Charges

Criteria for determining tariffs, rates, fees or charges

28. (1) The Council shall determine the criteria for setting and approving tariffs, rates, fees or charges for the provision of water supply and sanitation services by a utility.

(2) The Council shall, in determining the criteria for setting and approving tariffs, rates, fees or charges under subsection (1), consider —

(a) the efficient cost of providing water supply or sanitation services;

(b) the need for a return on the capital invested for water supply or sanitation services;

(c) financial implications of the tariffs, rates, fees or charges on consumers;

(d) consumer and investor interests;

(e) promotion or achievement of water conservation;

(f) prescribed national water supply and sanitation standards;

(g) financial sustainability of a utility;

(h) protection of the environment and health; and

(i) any other matter that the Council may consider necessary.

Prohibition of levying tariffs, rates fees or charges without approval

29. (1) A utility shall not levy a tariff, rate, fee or charge without the approval of the Council.

(2) A utility that contravenes subsection (1), commits an offence and is liable, on conviction, to a fine not exceeding three hundred thousand penalty units.

Approval of tariffs, rates, fees or charges

30. (1) A utility that intends to levy a tariff, rate, fee or charge shall apply to the Council for approval in a prescribed manner and form on payment of a prescribed fee.

(2) The procedure for the approval of a tariff, rate, fee or charge shall be prescribed.

Use of tariffs by service provider

31. A developer or other person operating as a service provider under an agreement with a utility shall utilise the tariffs, rates, fees or charges of a utility approved by the Council.

PART VII

Water And Sanitation Facilities

Construction of facilities and consultation

32. (1) Subject to any other written law, a utility or service provider may construct a facility within a service area of the utility or service provider for the purpose of providing water supply or sanitation services.

(2) A local authority, developer or any other person shall consult a utility before —

(a) a change in land use or zoning is approved by an appropriate authority; or

(b) before consent for a new development is obtained from an appropriate authority.

(3) The Council shall establish procedures relating to consultations referred to under subsection (2).

(4) A developer or any other person who intends to construct a facility in an area where there is inadequate or no water supply or sanitation services shall, apply to a utility for approval in a prescribed manner and form to construct a facility in that area before commencement of construction.

(5) A utility shall, within thirty days of receipt of an application under subsection (4), grant or reject the application.

(6) A utility shall, where an applicant meets the prescribed requirements, grant an application made under subsection (4).

(7) A utility shall, where a utility rejects an application under subsection (5), inform the applicant, in writing, stating the reasons for the rejection.

Extent of construction and maintenance of facility

33. (1) A utility or service provider shall, within its service area, construct and maintain a facility to the boundary of a property or land.

(2) An owner or occupier of the property or land referred to under subsection(1) shall, within a period specified by a utility or service provider, connect to the water supply or sewerage facility constructed and maintained to the boundary of the property or land by the utility or service provider.

(3) Subsection (2) shall not apply to an owner or occupier of a property or land who, prior to the construction of a facility to the boundary by a utility or service provider, had in place private sewerage installation or private water supply which meets the prescribed standards.

(4) Despite subsection (3), where an owner or occupier of a property or land has a private sewerage installation or private water supply that does not meet the prescribed standards, that owner or occupier shall, within a period specified by a utility or service provider under subsection (2), connect to the water supply or sewerage facility constructed and maintained to the boundary of the property by the utility or service provider.

(5) A person who contravenes subsections (2) or (4) commits an offence and is liable, on conviction, to a fine not exceeding sixty thousand penalty units or to imprisonment for a term not exceeding six months, or to both.

Rights over private water supply or sewerage facilities installation

34. (1) A utility or service provider shall, where a private water supply or sewerage facility on a private property or land interferes or is likely to interfere with the proper functioning of a water supply system or sewerage system of a utility or service provider or may pose a threat to public health or service delivery, notify an owner or occupier of the property or land to take necessary measures to prevent the interference, likelihood of interference or threat to public health or service delivery within seven days of receipt of the notification.

(2) A utility or service provider may, where an owner or occupier of a private property or land does not comply with the notification referred to under subsection (1), enter the private property or land and take appropriate action to remedy the interference, likelihood of interference, or threat to public health or service delivery, and all expenses incurred shall be borne by the owner or occupier.

(3) A person authorised, in writing, by a utility or service provider, may at any time, enter premises where there are facilities to —

(a) inspect the facilities to determine whether there is a water or sewer leakage, obstruction or damage to a facility;

(b) repair or alter a facility or meter;

(c) measure and verify the amount and level of water supplied;

(d) disconnect, reduce, withhold, suspend, stop or divert water supply to other premises;

(e) disconnect a sewer; or

(f) carry out any other activity necessary for the proper provision of water supply or sanitation services.

Damage to water works or sanitation works

35. (1) A utility or service provider shall, where a person has caused damage to water works or sanitation works, require that person to —

(a) rehabilitate the water works or sanitation works, as the utility or service provider may determine, to remedy the damage or prevent a recurrence of the damage; and

(b) pay compensation to the utility or service provider for the loss incurred as a result of the damage to water works or sanitation works.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

Compensation for damage

36. (1) A utility or service provider shall, when undertaking works relating to water or sanitation services, cause as minimal damage and inconvenience as possible to a property or land of an owner or occupier.

(2) A utility or service provider that causes damage to a property or land of an owner or occupier shall repair the damage or compensate the owner or occupier for the damage.

PART VIII

Water Supply and Sanitation Tribunal

Appeal from decision of Council

37. (1) A person who is aggrieved with a decision of the Council under this Act may, within thirty days of the decision, appeal to the Minister.

Tribunal

38. (1) The Minister shall, within fourteen days of receipt of an appeal in accordance with section 37, appoint and convene an *ad hoc* tribunal consisting of the following members:

(a) a chairperson, who shall be a person eligible to be appointed as a Judge of the High Court; and

(b) two other members with knowledge and experience in water supply and sanitation or any other appropriate professional field relevant for purposes of the appeal.

(2) The members of a tribunal shall be appointed on terms and conditions that may be specified in their letters of appointment.

Powers of tribunal

39. (1) A tribunal shall, within thirty days of being convened, determine an appeal on its merits,

taking into account the provisions of this Act and any other relevant written law.

(2) A tribunal shall afford the appellant the right to appear personally or be represented by a legal practitioner or an agent.

(3) The Chief Justice may, by statutory instrument, make rules for the procedure to be followed and the rules of evidence to be observed in proceedings before a tribunal.

(4) For purposes of this section, "legal practitioner" has the meaning assigned to the word "practitioner" in the Legal Practitioners Act. Cap.30

Decisions of tribunal

40. (1) A tribunal may confirm, vary or quash a decision appealed against.

(2) A decision of a tribunal shall be in the form of a reasoned judgement and a copy of the judgement shall be served on each party to the proceedings and to every person affected by the decision.

(3) A decision of a tribunal is final and binding on the parties to the appeal.

(4) An appeal against a decision of a tribunal lies to the Court of Appeal.

Funding and allowances of tribunal

41. (1) The expenses and costs of a tribunal shall be paid out of funds appropriated by Parliament for the performance of the tribunal's functions under this Act.

(2) The members of a tribunal shall be paid allowances as the Emoluments Commission may, on the recommendation of the Minister, determine.

Secretariat of tribunal

42. The Ministry responsible for water shall be the secretariat of a tribunal.

PART IX

INSPECTORATE

Inspectors

43. (1) The Council shall appoint suitably qualified persons as inspectors to ensure compliance with this Act.

(2) The Council shall issue an inspector with an identification card which shall be *prima facie* evidence of the inspectors' appointment as inspector.

(3) An inspector shall, in performing an inspector's functions under this Act—

(a) be in possession of the identification card referred to under subsection (2); and

(b) show the identification card to a person who requests to inspect the identification card, or is the subject of an investigation under this Act.

Power of entry, search and inspection

44. (1) An inspector may, for the purpose of enforcing the provisions of this Act, at any reasonable time, without prior notice and on the authority of a warrant, enter any premises that the inspector has reasonable grounds to believe is used for the commission of an offence or contrary to the provisions of this Act, and —

(a) search the premises;

(b) search a person who the inspector has reasonable grounds to believe is in possession of an article, document or record that has a bearing on an investigation, except that a person shall only be searched by a person of the same sex;

(c) inspect a document or equipment at a person's premises;

(d) take an extract from, or make a copy of, any book, document or record that is found on the premises, and has a bearing on an inspection or investigation;

(e) require, from a person whose in control of a premises, an explanation of a book, document or record;

(f) remove equipment, commodities or products used in contravention of this Act; and

(g) make inquiries that may be necessary to ascertain whether this Act or any other written law on which an inspection or investigation is based, have been complied with.

(2) An owner or occupier of any land or premises shall afford on inspector access to any information, record or document for the purpose of an inspection and produce to an inspector, any information, record or document that the inspector may require for the purposes of carrying out an inspection under this Act.

(3) An inspector may, in the performance of the inspector's functions under this section, be accompanied and assisted by a law enforcement officer.

(4) An inspector who removes anything from any land or premises shall —

(a) issue a receipt for anything removed to the owner, occupier or the person in control of the land or premises; and

(b) return anything removed as soon as practicable after the thing removed has served the purpose for which it was removed.

(5) An inspector shall furnish the Council with a written report and any other information relating to an inspection.

(6) A person commits an offence if that person —

(a) delays or obstructs an inspector in the performance of the inspector's functions under this Act;

(b) refuses to give an inspector reasonable assistance as the inspector may require for the purposes of performing the inspector's functions;

(c) impersonates an inspector or presents oneself to be an inspector; or

(d) knowingly or negligently gives an inspector false or misleading information in answer to an inquiry made by the inspector.

(7) A person convicted of an offence under subsection (6) is liable, on conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

Restoration of property

45. (1) An inspector shall, where a person from whom an article or other property has been seized under this Act is found not guilty or the proceedings against that person are withdrawn —

(a) without unnecessary delay, restore the article or property to that person; or

(b) where an inspector is satisfied that the person cannot be found or is unwilling to receive back the article or property, apply to the court for an order of forfeiture of the article or property.

(2) Subject to the Forfeiture of Proceeds of Crime Act, the court shall make an order of Forfeiture under subsection (1) if —

(a) the inspector has given notice, by publication in the *Gazette* and in one daily newspaper of general circulation in the Republic, to the effect that the article or property which has been seized under this Act shall vest in the State if it is not claimed within three months from the date of publication of the notice; and

(b) three months after the giving of the notice under paragraph *(a)*, the article or property remains unclaimed.

(3) Where a claim is made, in writing, by any person that is lawfully entitled to the article or property seized under this Act that the article or property is not liable to forfeiture under this Act, the inspector may order the release of the article or property to the claimant if satisfied that there is no dispute concerning the ownership of the article or property and that it is not liable to forfeiture.

(4) An inspector shall refer a claim to the court where a claim of ownership is made in relation to the article or property seized under this Act and the inspector finds that —

(a) there is a dispute regarding the ownership of the article or property;

(b) there is insufficient evidence to determine the ownership of the article or property; or

(c) an enforcement authority is unable to ascertain whether the article or property is liable to forfeiture or not.

PART X

General Provisions

Maps of water works and sanitation works

46. (1) A utility shall keep and maintain updated records of maps, showing the location of its water works and sanitation works.

(2) A copy of a map referred to under subsection (1) shall be submitted to a local authority within a utility's service area for planning purposes annually or whenever changes are made to the map.

(3) A developer, road works contractor or any other person shall, on payment of a prescribed fee and within fourteen days before the commencement of water works, sanitation works or any construction works, request a utility to make available the map referred to under subsection (1).

(4) A utility shall, within fourteen days of receipt of a request under subsection (3), submit the map to a developer, road works contractor or any other person.

(5) A utility that does not comply with subsection (4) is liable for any damages to water works or sanitation works resulting from works done by a developer, road works contractor or any other person.

(6) Despite subsections (3), (4) and (5), a developer, road works contractor or any other person that causes any damage to water works or sanitation works shall report the damage to a utility within one hour from the occurrence of the damage unless it is not practicable to do so.

(7) A developer, road works contractor or any other person shall, where a developer, road works contractor or any other person fails to report the damage within the period referred to under subsection (6), compensate the utility for the loss incurred.

(8) A developer, road works contractor or any other person who contravenes subsection (3) commits an offence and is liable for any damages caused by that developer, road works contractor or any other person.

Monetary penalties

47. A utility or service provider may impose monetary penalties for late payment or non payment of tariffs, rates, fees or charges, as prescribed.

Disconnection of water or sewer service connection

48. (1) A utility or service provider shall, where a consumer defaults payment, disconnect a water or sewer connection.

(2) The cost of disconnection of a water or sewer connection under subsection (1) shall be borne by the consumer.

Unauthorised connections

49. (1) A utility or service provider shall, where a consumer's water or sewer connection is disconnected in accordance with section 48 and reconnects without authorisation, disconnect the consumer.

(2) The expenses incurred in respect of the unauthorised connection under subsection (1) shall be borne by the consumer.

Disconnection or separation of common water or sewer service connection

50. (1) A utility or service provider shall, where one or more consumers who share a common water or sewer connection default payment, disconnect the water or sewer connection.

(2) Despite subsection (1), a utility or service provider shall, where some of the consumers who share a common water or sewer connection default payment, separate the common water or sewer connection.

(3) The cost of disconnection of a common water or sewer connection under subsection (1) shall be apportioned among the consumers in proportion to the amount owed to a utility or service provider.

(4) The cost of separation of a common water or sewer connection under subsection (2) shall be borne by a consumer who defaults payment.

Request to separate from common water connection

51. A consumer who shares a common water or sewer connection may request a utility or service provider to separate from a common water or sewer connection.

Enforcement notice

52. (1) The Council may, where a utility or service provider is operating in contravention of this Act, by notice served on the utility, direct the utility or service provider to take, within a period that may be specified in the notice, measures or steps that the Council may direct.

(2) The Council shall, within seven days of serving the notice under subsection (1), publish the notice in a daily newspaper of general circulation in the Republic.

(3) A utility or service provider that contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding one year, or to both.

Easement

53. A utility or service provider may enter into an agreement with an owner or occupier of land to create an easement for purposes of operating, maintaining and monitoring the facilities of the utility or service provider on that land.

Register

54. (1) The Council shall keep and maintain a register of —

(a) licensed utilities under this Act;

(b) suspended or cancelled licences;

(c) service providers that have entered into an agreement with a utility under this Act; and

(d) any other information as may be prescribed.

(2) The registers referred to under subsection (1) shall be kept at the office of the Council and shall be open for inspection by members of the public during normal office hours on payment of a fee that the Council may determine.

(3) The Director-General shall on an application by a person, issue to the person a certified extract from the register or a copy of a licence issued to a holder of a licence in accordance with this Act on payment of a prescribed fee.

Publication of copies of register

55. (1) The Director-General shall, on direction by the Board, cause copies of a register including alterations of, or additions to the register, to be printed and published in a manner and form that the Board may direct.

(2) Subject to this Act, a copy of the last published or printed register shall be *prima facie* evidence in legal proceedings of what is contained in that register and the absence of a licence from that copy is *prima facie* evidence that the utility is not registered.

Offences relating to bathing or washing in water works area, sanitation works or vessel

56. (1) A person shall not bath or wash linen or any other article in a water works area, sanitation works or in a vessel used by a utility or service provider for providing water supply and sanitation services.

(2) A person who contravenes subsection (1), commits an offence and is liable, on conviction, to a fine not exceeding eighty thousand penalty units or to imprisonment for a term not exceeding ten months, or to both.

Offences relating to water pollution

57. (1) A person shall not discharge, apply or deposit into a water works area or sanitation works, poisonous, toxic, radiative or polluting substances.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

Offences relating to erecting structure, occupying or residing in water works area or sanitation works

58. (1) A person shall not, except with the written approval of a utility or service provider —

(a) erect a structure in a water works area or sanitation works; or

(b) occupy or reside in a water works area or sanitation works.

(2) A person who contravenes subsection (1), commits an offence and is liable, on conviction, to a fine not exceeding three hundred thousand penalty units, or to imprisonment for a term not exceeding three years, or to both.

Immunity from execution of judgement against Council's assets

59. Where a judgement or court order is obtained against the Council, execution, attachments or process of any nature shall not be issued against the Council or against the property of the Council, but the Council shall cause to be paid out of the Council's funds an amount that may, by judgement or court order, be awarded against the Council to the person entitled to the amount.

Offences relating to entry in water works area or sanitation works, etc.

60. (1) A person shall not, except with the written approval of a utility or service provider —

(a) enter a water works area or sanitation works;

(b) make a connection to a water transmission or distribution pipe; or

(c) connect to a sewer or sewerage system or discharge liquid, including trade effluent or solid matter, into a sewerage system.

(2) A person who contravenes subsections (1) commits an offence and is liable, on conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

General offences

61. (1) A person commits an offence if that person —

(a) obstructs an employee of a utility or service provider in performing their functions under this Act;

(b) interferes with the facilities of a utility or service provider;

(c) alters or defaces a licence or any other document issued under this Act;

(d) knowingly makes, or causes to be made, to the Council a false statement in any material particular under this Act;

(e) wilfully or negligently misuses or resells unmetered water supplied by a utility or service provider or

(f) aids, abets, counsels or procures a person to commit an offence under this Act.

(2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding three hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

General penalty

62. A person who commits an offence under this Act for which no penalty is provided is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

Administrative penalty

63. (1) The Council may impose an administrative penalty on a person for a failure to comply with a provision of this Act which is not an offence.

(2) An administrative penalty shall not exceed the amount prescribed by the Minister, by statutory instrument, for each day during which the failure continues.

(3) An administrative penalty shall be paid to the Council within the period specified by the Council.

(4) If a person on whom an administrative penalty is imposed in accordance with this section fails to pay the administrative penalty within the time specified under subsection (3), the Council may, by way of civil action in a competent court, recover the amount of the administrative penalty from that person as an amount due and owing to the Council.

Offences by principal officers of body corporate or unincorporate body

64. Where an offence under this Act is committed by a body corporate or unincorporate body, with the knowledge, consent or connivance of the director, manager, shareholder or partner of the body corporate or unincorporate body, that director, manager, shareholder or partner commits the same offence as the body corporate or unincorporate body and is liable, on conviction, to the penalty specified for that offence under this Act.

Prohibition of publication or disclosure of information to unauthorised person

65. (1) A person shall not, without the consent, in writing, given by, or on behalf of, the Council, publish or disclose to a person, other than in the course of duties of that person, the contents of a document, communication or information which relates to or which has come to the knowledge of that person in the course of that person's duties under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

(3) A person who, having information which to that person's knowledge has been published or disclosed in contravention of subsection (1), unlawfully publishes or communicates the information to another person, commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

Guidelines

66. (1) The Council may, in the exercise of the functions of the Council under this Act, issue guidelines that are necessary for the better carrying out of the provisions of this Act.

(2) The Council shall publish the guidelines issued under this Act in the *Gazette* and a daily newspaper of general circulation in the Republic or by any other electronic media that the Council may determine.

(3) The guidelines issued by the Council under this Act shall take effect on the date of publication and shall bind the persons regulated under this Act.

Regulations

67. (1) The Minister may, in consultation with the Council, make Regulations for the better carrying out of the provisions of this Act.

(2) Despite subsection (1), the Regulations made under this section may provide for —

(a) the manner and forms of making applications under this Act and the fees payable;

(b) the minimum requirements for issuance of a licence;

(c) the standards to be used by the Council in ensuring adherence by a utility;

(d) the management and administration of consumer watch groups;

(e) water quality monitoring;

(f) on-site sanitation and faecal sludge management;

(g) classification of service providers and own use;

(h) trade effluent in public sewer systems; and

(i) anything which may be required for the better carrying into effect of the provisions of this Act.

Repeal of Cap.180 and savings and transitional provisions

68. (1) The Water Supply and Sanitation Act is repealed.

(2) Despite subsection (1), the Second Schedule applies to the savings and transitional provisions.

FIRST SCHEDULE

(*Sections* 5(2), 7(6) and 10(5))

PART I

ADMINISTRATION OF THE COUNCIL AND THE COMMITTEE

Seal of Council

1. (1) The seal of the Council shall be a device that may be determined by the Council and shall be kept by the Director-General.

(2) The affixing of the seal shall be authenticated by the Chairperson or the Vice Chairperson and the Director-General or any other person authorised in that behalf by a resolution of the Board.

(3) A contract or instrument which, if entered into or executed by a person not being a body corporate, is not required to be under seal, may be entered into or executed without seal on behalf of the Council by the Director-General or any other person authorised in that behalf by a resolution of the Board.

(4) A document purporting to be a document under the seal of the Council or issued on behalf of the Council shall be received in evidence and shall be considered to be so executed or issued, without further proof, unless the contrary is proved.

Tenure of office and vacancy

2. (1) A member of the Board or Committee shall, subject to other provisions of this Act, hold office for a term of three years from the date of appointment and may be re appointed for a further and final term of three years.

(2) A member of the Board or Committee shall, on the expiration of the term for which the member is appointed, continue to hold office until another member is appointed, but in no case shall an extension of the period exceed three months.

(3) The office of a member of the Board or Committee becomes vacant if the member —

(a) dies;

(b) is adjudged bankrupt under any written law;

(c) is absent, without reasonable excuse, from three consecutive meetings of the Board or Committee, of which the member has had notice, without the prior approval of the Board or Committee;

(d) resigns, by giving one month's notice in writing, to the Minister;

(e) is legally disqualified from performing the functions of a member of the Board or Committee;

(f) ceases to be an employee or a member of the ministry, institution or organisation that nominated that member; or

(g) is convicted of an offence under this Act or any other written law and sentenced to imprisonment for a term exceeding six months without the option of a fine.

(4) The Minister shall, where the office of a member of the Board or Committee becomes vacant before the expiry of the term of office, appoint another member in place of that member of the Board or Committee but that member shall hold office as a member of the Board or Committee only for the unexpired part of the term of the Board or Committee.

Proceedings of Board and Committee

3. (1) Subject to the other provisions of this Act, the Board or Committee may regulate its own procedure.

(2) The Board shall meet for the transaction of business at least once every three months at a place and time that the Chairperson may determine.

(3) The Committee shall meet for the transaction of business at least once every three months at a place and time that the chairperson may determine.

(4) The Chairperson or chairperson of the Committee shall, on giving notice of not less than fourteen days, call for a meeting of the Board or Committee, or where one third or more of the members of the Board or Committee so request, in writing, except that if the urgency of a particular matter does not permit the giving of a notice, a special meeting may be called on giving a shorter notice.

(5) Four members shall form a quorum at a meeting of the Board.

(6) Three members shall form a quorum at a meeting of the Committee.

(7) There shall preside at any meeting of the Board —

(a) the Chairperson;

(b) in the absence of the Chairperson, the Vice-Chairperson; or

(c) in the absence of the Chairperson and the Vice- Chairperson, a member of the Board as the members of the Board present may elect for the purpose of that meeting.

(8) There shall preside at any meeting of the Committee —

(a) the chairperson of the Committee;

(b) in the absence of the chairperson, the vice-chairperson of the Commitee; or

(c) in the absence of the chairperson and the vice-chairperson of the Commitee, a member of the Committee as the members of the Committee present may elect for the purpose of that meeting.

(9) A decision of the Board or Committee on any question shall be by a majority of the members of the Board or Committee present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to that person's deliberative vote.

(10) A member may, where the member is for any reason unable to attend a meeting of the Board or Committee, nominate another person, in writing, from the same ministry, institution or organisation to attend a meeting of the Board or Committee in that member's stead and that person shall be deemed to be a member for the purpose of that meeting.

(11) The Board or Committee may invite a person whose presence is in the Board or Committee's opinion desirable to attend and to participate in the deliberations of a meeting of the Board or Committee but that person shall have no vote.

(12) The validity of any proceedings, act or decision of the Board or Committee shall not be affected by any vacancy in the membership of the Board or Committee or by any defect in the appointment of a member or by reason that any person not entitled to do so took part in the proceedings.

(13) The Board or Committee shall cause minutes to be kept of the proceedings of every meeting of the Board or Committee.

Committees of Board

4. (1) The Board may, for the purpose of performing its functions under this Act, constitute a

committee and delegate any of its functions to the committee as the Board considers necessary.

(2) The Board may appoint as members of a committee, persons who are, or are not, members of the Board, except that at least one member of the Board shall be a member of a committee.

(3) A member of a committee shall hold office for a period that the Board may determine.

(4) Subject to any specific or general directions of the Board, a committee may regulate its own procedure.

(5) The Board shall cause to be kept minutes of the proceedings of every meeting of any committee constituted by the Board.

Allowances

5. A member of the Board or Committee, or member of a committee of the Board shall be paid allowances that the Emoluments Commission may, on the recommendation of the Minister, determine.

Disclosure of interest

6. (1) A person who is present at a meeting of the Board or Committee, or a committee of the Board at which any matter is the subject of consideration and in which matter that person or that person's relative or associate is directly or indirectly interested in a private capacity, shall, as soon as is practicable after the commencement of the meeting, declare that interest and shall not, unless the Board, Committee or a committee of the Board otherwise directs, take part in any consideration or discussion of, or vote on, any question relating to that matter.

(2) A disclosure of interest made under sub-paragraph (1) shall be recorded in the minutes of the meeting at which the disclosure is made.

Immunity of members

7. An action or other proceedings shall not lie or be instituted against a member of the Board, a member of the Committee, a member of a committee of the Board or a member of staff of the Council for, or in respect of, an act or thing done or omitted to be done in good faith in the exercise or performance of any of the powers, functions or duties conferred under this Act.

Prohibition of publication or disclosure of information to unauthorised person

8. (1) A person shall not, without the consent, in writing, given by, or on behalf of, the Council or Committee publish or disclose to an unauthorised person, other than in the course of duties of that person, the contents of a document, communication or information which relates to or which has come to the knowledge of that person in the course of that person's duties under this Act.

(2) A person who contravenes sub-paragraph (1) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

(3) A person who, having information which to that person's knowledge has been published or disclosed in contravention of sub-paragraph (1), unlawfully publishes or communicates the information to another person commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

PART II

FINANCIAL PROVISIONS

Funds of Council

9. (1) The funds of the Council consist of monies that may —

(a) be appropriated to the Council by Parliament;

Cap.347

(b) subject to the Public Finance Management Act, be received by way of grants or donations from any source within the Republic and subject to the approval of the Minister, from any source outside the Republic;

(b) be paid to the Council by way of fees, grants or donations; or

(c) vest in, or accrue to, the Council.

Act No.15 of 2022

(2) The Council may raise loans in accordance with the Public Debt Management Act, 2022.

(3) There shall be paid from the funds of the Council —

(a) the salaries, allowances, loans, gratuities and pensions of the staff of the Council and other payments for the recruitment and retention of staff;

(b) reasonable travelling, transport and subsistence expenses and allowances for members of the Board, members of a committee of the Board or members of the Committee when engaged in the business of the Council at rates that the Emoluments Commission may, on the recommendation of the Minister, determine; and

(c) any other expenses incurred by the Council in the performance of the Council's functions under this Act.

Cap.347

(4) Subject to the Public Finance Management Act, the Board may, with the approval of the Minister, invest in a manner that the Board considers appropriate funds of the Council that the Council does not immediately require for the performance of the Council's functions.

Financial year

10. The financial year of the Council shall be a period of twelve months ending on 31st December in each year.

Accounts and audit

11. (1) The Board shall cause to be kept proper books of accounts and other records relating to the accounts of the Council.

(2) The accounts of the Council shall be audited annually by the Auditor-General or an auditor appointed by the Auditor- General.

(3) The fees for the Auditor-General or an auditor appointed by the Auditor-General shall be paid by the Council.

Annual Report

12. (1) The Council shall, as soon as practicable, but not later than ninety days after the end of the financial year, submit to the Minister a report concerning the activities of the Council during the financial year.

(2) The report referred to in sub-paragraph (1) shall include information on the financial affairs of the Council and there shall be appended to the report —

(a) an audited statement of financial position;

(b) an audited statement of comprehensive income and expenditure; and

(c) other information that the Minister may require.

(3) The Minister shall, not later than seven days after the first sitting of the National Assembly next after receipt of the report referred to in sub-paragraph (1), lay the report before the National Assembly.

SECOND SCHEDULE

(*Section* 68(2))

Savings And Transitional Provisions

Interpretation

1. In this Schedule, unless the context otherwise requires —

"former Committee" means the Technical Advisory Committee constituted under the repealed Act; and

"former Council" means the Council established under the repealed Act.

Member of former Board

2. A person who immediately before the commencement of this Act held office as a member of the former Council shall continue to hold office as a member for a period of three months after which the Minister shall appoint the members of the Board in accordance with this Act.

Member of former Committee

3. A person who immediately before the commencement of this Act held office as a member of the former Committee shall continue to hold office as a member for a period of three months after which the Board shall appoint the members of the Committee in accordance with this Act.

Staff of Council

4. (1) For the avoidance of doubt, a personwho, before the commencement of this Act, was an officer or employee of the former Council, shall continue to be an officer or employee of the Council, as if appointed or employed under this Act.

(2) The service of the persons referred to in sub-paragraph(1) shall be treated as continuous service.

(3) Nothing in the Act affects the rights and liabilities of any person employed or appointed by the former Council before this Act comes into force.

Licences issued under repealed Act

5. A licence issued under the repealed Act shall continue to be valid until expiry, cancellation or surrender as if the licence was issued in accordance with this Act.

Transfer of assets and liabilities

6. (1) On or after the commencement of this Act, there shall be transferred to, vest in and subsist against the Council by virtue of this Act and without further assurance, all assets, rights and obligations which immediately before the commencement of this Act, were the assets, rights, liabilities and obligations of the former Council.

(2) Subject to sub-paragraph (1), every deed, bond and agreement, other than an agreement for personnel service, to which the former Council was a party immediately before the commencement of this Act whether or not of a nature that rights, liabilities and obligations could be assigned, shall, unless its subject matter or terms make it impossible that it should have effect as modified, as provided under this paragraph, have effect as if —

(a) the Council had been party to it;

(b) for any reference to the former Council there was substituted, with respect to anything falling to be done on or after the commencement of this Act, a reference to the Council; or

(c) for any reference to any officer of the former Council, not being a party to it and beneficially interested, there were substituted, as respects anything required to be done on or after the commencement of this Act, a reference to that officer of the Council, that the Council shall designate.

(3) Where under this Act, any assets, rights, liabilities and obligations of the former Council are considered to be transferred to the Council in respect of which transfer a written law provided for registration, the Council shall make an application, in writing, to the appropriate registration authority for registration of the transfer.

(4) The registration authority, referred to in sub-paragraph (3), shall make entries in the appropriate register as shall give effect to the transfer and where applicable, issue to the transferee concerned a certificate of title in respect of the property or make necessary amendments to the register and shall endorse on the deeds relating to the title, right or obligation concerned and no registration fees or other duties shall be payable in respect of the transaction.

Legal proceedings

7. (1) Any legal proceedings or application of the former Council pending immediately before the commencement of this Act by or against the former Council may be continued by or against the Council.

(2) After the commencement of this Act, proceedings in respect of any right, liability or obligation which was vested in, held, enjoyed, incurred or suffered by the former Council, may be instituted by, or against, the Council.