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THE WATERWORKS ACT

CHAPTER 137

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CHAPTER 137.

THE WATERWORKS ACT.

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CHAPTER 137.

THE WATERWORKS ACT.

[1ST APRIL, 1929.]

An Act To Provide For And To Regulate A Supply Of
Water To The Public.

Ords.—

15 of 1928.
26 of 1932.
17 of 1933.
19 of 1947.
23 of 1948.
6 of 1951.

Acts—

76 of 1963.
15 of 1965.
L.N. 161
of 1962.

Short title.
Cap. 15.Interpreta-
tion.

Amended
Ord. 6 of
1951, s. 2.
L.N. 161
of 1962.
Act 15 of
1965, s. 2.

PART I—PRELIMINARY.

1. [Omitted—Acts of Parliament Act, section 12.]
2. In this Act, unless the context otherwise requires—
 - “catchment area” means any area of land or of water delimited by the Minister the water from which contributes to the supply of any waterworks;
 - “contractor” means any person employed under a contract to erect a building or perform other constructional work on any premises;
 - “domestic purposes” means in relation to any premises only such uses of water as are ordinarily necessary for the health and reasonable domestic comfort of any person residing upon or resorting to the premises during the period of that residence or resorting;
 - “meter” means an apparatus for measuring water and any meter box, meter box cover and indicator marking the position and size of such meter;
 - “occupier” means any person in occupation of the premises or any part of the premises in connection with which the word is used:

Provided that any contractor who requires a supply of water for the fulfilment of his contract shall be deemed to be an occupier of premises for the purposes of those sections of this Act and of those rules made thereunder as relate to the application for a supply of water, the use thereof and payment therefor;

- “owner” means the person for the time being receiving the rent of the premises in connection with which the word is used whether on his own account or as agent or trustee for any other person or who would receive the rent if the premises were let to a tenant, and includes the holder of premises from a controlling authority as defined in the Public Lands Act; Cap. 201.
- “premises” means any land or building or part of any land or building which is held or occupied as a distinct or separate holding or tenancy and includes any wharf or pier;
- “prescribed authority” means the person appointed by the Minister under section 20 of this Act for the purposes prescribed by that section;
- “public fountain” means any fountain, stand-pipe, tap or trough or any structure in connection therewith which is used or intended to be used for or in connection with the supply of water to the public from the waterworks as prescribed and erected by the Water Authority;
- “rating list” means the rating list for an urban authority prepared, revised and authenticated under the Local Government (Rating) Act or the Urban Authorities Act; Cap. 29.
Cap. 27.
- “service” means all pipes, cisterns, cocks, fittings and other appliances (excepting any meter herein defined) through which water flows or is intended to flow from the mains of the Water Authority to any premises;
- “urban area” means any area declared to be a municipality or town under the Urban Authorities Act;
- “urban authority” means a municipal or town council or board established or deemed to be established under the Urban Authorities Act;
- “urban rate” means the annual rate levied in an urban area under the Local Government (Rating) Act or the Urban Authorities Act;
- “Water Authority” means the person appointed by the Minister to manage or supervise the waterworks and the supply of water therefrom in any defined area;

“waterworks” means all reservoirs, dams, weirs, tanks, cisterns, tunnels, adits, wells, boreholes, filters, settling tanks, purifying plant, conduits, aqueducts, mains, pipes, foundations, stand-pipes, hydrants, taps, pumps, engines and all other structures and appliances used or constructed for obtaining, storing, purifying, conveying, distributing, measuring or regulating water which are used or have been constructed by or on behalf of the Government and are the property thereof or which shall hereafter be used or constructed by the Government or by the Water Authority.

Defined
area.
Amended
L.N. 161
of 1962.

3. The Minister may by statutory order prescribe any defined area as a “defined area” under this Act.

Appoint-
ment of
Water
Authority.
Amended
L.N. 161
of 1962.

4. The Minister may by statutory order appoint a Water Authority for any defined area.

PART II—POWERS AND DUTIES OF WATER AUTHORITY.

Duties of
Water
Authority.
Amended
L.N. 161
of 1962.

5. A Water Authority duly appointed shall construct or take over any waterworks required or provided for the supply of water in the defined area for which it is appointed and shall manage, maintain, extend and alter such waterworks and shall manage and distribute the water therein subject to the approval and authority of the Minister.

Exercise of
powers and
duties.

6. The powers and duties of a Water Authority may be exercised and performed by the officers and servants of a Water Authority subject to the general authority of the Water Authority.

Powers of
maintenance,
etc.
Amended
Ord. 6 of
1951, s. 3.

7. The Water Authority may, in any public thoroughfare or any public place, lay down, maintain, take up, renew or alter, inspect, attend to, examine and test any water pipe or any public fountain.

Powers to
lay pipes,
etc., on
private lands.

8. The Water Authority may, after giving reasonable notice in writing to the owner or occupier, carry any water pipe through, across or under any lands whatsoever and may, at any time, upon giving such reasonable notice as circumstances permit, or in case of serious emergency without giving

notice, enter upon any such lands for the purpose of repairing, maintaining, renewing, removing, altering, inspecting, attending to or testing any such water pipe thereon, without paying any compensation but making good or at his option paying for damage done or occasioned through the operations under this section.

9. (1) The Water Authority may for any of the purposes in this section mentioned at any time between six o'clock in the morning and six o'clock at night or in the case of urgency at any other time, enter upon any premises into, upon or under which any pipe or fitting connected with the waterworks is or is being fixed—

Power of entry.

Amended Ord. 6 of 1951, s. 4.

- (a) to inspect any such pipe or fitting laid or fixed or being laid or fixed and to ascertain whether there is or is likely to be any waste, leakage, obstruction, damage or pollution or misuse of water in connection therewith and to ascertain whether such pipe or fitting complies with the terms of any rules made under this Act relating thereto;
- (b) to fix, inspect, read, check, clean or remove or replace any meter or similar appliance of the Water Authority used or to be used in connection with the supply of water;
- (c) to disconnect the supply of water from any premises or to diminish, withhold or divert the supply of water through or by means of any pipe or fitting wholly or in part.

(2) Any Water Authority may for the purposes of examining and inspecting any catchment area or for ascertaining whether any offence has been committed in such area enter upon any land or water or any premises in such area and it shall be lawful for the Authority to take samples of any material or effluent which in its opinion may cause pollution of the water in that area.

10. The Water Authority may in its discretion at any time diminish, turn off or divert the supply of water to any premises or place without prejudice to the recovery or retention of any water rate, charges, meter-rent, or other sums of money due or to become due under the provisions of this Act.

Power to curtail or withhold supply of water.

Substituted Ord. 6 of 1951, s. 5.

Power to prohibit use of water for specific purposes.

Added
Ord. 6 of
1951, s. 6.

10A. The Water Authority may from time to time by notice published in the Gazette prohibit the use of water for any purpose or purposes specified in such notice.

Power to authorise supply of water outside defined area.

Added
Ord. 17 of
1933, s. 2.
Amended
L.N. 161
of 1962.

11. Notwithstanding anything in this Act contained, the Minister may—

(a) authorise a Water Authority to supply water outside its defined area; and

(b) prescribe the charge for water so supplied and the conditions on which a supply shall be authorised:

Provided that any charge so prescribed shall not be less than the charge for a similar supply within the defined area.

Application of Act to supply outside defined area.

Added
Ord. 17 of
1933, s. 3.
Amended
L.N. 161
of 1962.

12. When a supply of water is authorised in accordance with the provisions of the preceding section, the provisions of this Act and all statutory instruments made thereunder shall apply, *mutatis mutandis*, to such supply, subject always to the charge and any conditions prescribed by the Minister.

PART III—WATER RATES.

General water rate.

Amended
Ord. 6 of
1951, s. 7.
L.N. 161
of 1962.

13. (1) The Minister may by statutory order—

(a) direct that a general water rate shall be levied in respect of the premises in any defined area;

(b) exempt from the general water rate wholly or to any specified extent any premises or description or class of premises;

(c) prescribe that any specified premises or description or class of premises shall pay a specified charge in addition to or in substitution for the general water rate;

(d) prescribe the amount of the general water rate;

(e) prescribe the date on which the first payment as made payable by section 21 of this Act shall become due.

(2) In prescribing the amount of the general water rate the order may provide that the rate relating to the premises in respect of which such rate is leviable shall be a prescribed

percentage not exceeding five per centum of the annual value of such premises :

Provided that the annual value of any premises below a prescribed value shall be deemed to amount to that prescribed value; such prescribed value shall be cited in the order as the "prescribed minimum value".

14. (1) The Minister may by statutory order—

- (a) direct that an internal supply rate shall be levied in any defined area in respect of an internal supply for domestic purposes to any premises within that area to which water is not supplied by quantity as provided by this Act;
- (b) prescribe the amount of the internal supply rate;
- (c) prescribe that any premises or description or class of premises shall pay a specified charge in addition to the internal supply rate.

Internal
supply rate.

Amended
L.N. 161
of 1962.

(2) In prescribing the amount of the internal supply rate the order may provide that the rate relating to the premises in respect of which such rate is leviable shall be a prescribed percentage not exceeding five per centum of the annual value of such premises :

Provided that the annual value of any premises below a prescribed value shall be deemed to amount to that prescribed value; such prescribed value shall be cited in the order as the "prescribed minimum value".

15. (1) The annual value of any premises, separately shown on a rating list, shall for the purposes of this Act be determined by the rating list for the urban area in which such premises are situated in force when any rate levied under this Act is due :

Mode of
determining
annual value.

Substituted
Ord. 26 of
1932, s. 2.
Amended
Act 76 of
1963, s. 2.

Provided that—

- (a) for the purposes of this Act, every rating list in force on the 1st June shall be deemed to continue in force until the 31st May next following; and
- (b) if such premises are not separately shown on a rating list or are situated in an urban area for which no rating list is prepared, or are exempt by law from payment of the urban rate in that urban area, or for any reason are not included in the rating list or are situated beyond the

boundaries of any urban area the Water Authority may from time to time as may be deemed expedient assess the annual value of such premises; any person aggrieved by the assessment of the Water Authority may within one month after notification that any rate is due from him, appeal against the assessment to any magistrate having jurisdiction. An appeal shall lie to the High Court from the decision of the magistrate.

(2) Where several premises, separately shown on a rating list, are occupied as one tenancy the Water Authority may treat the premises as one tenancy for the purposes of assessment of water charges.

(3) [Repealed—Act 76 of 1963, section 2.]

PART IV—SUPPLY OF WATER TO PREMISES.

Power of Water Authority to supply water to premises.

16. The Water Authority may subject to the provisions of this Act and of any rules made thereunder supply water to any premises on application being made by the owner or occupier thereof.

Supply by measured quantity.

Added Ord. 6 of 1951, s. 8. Amended L.N. 161 of 1962.

16A. The Minister may by statutory order direct that in respect of any area and in respect of any premises or class or description of premises that the charges for water supplied shall be assessed on consumption as registered by a meter and in such order he may prescribe—

- (a) the charge to be made in respect of various premises or classes or description of premises;
- (b) a minimum charge to be made in respect of any premises or class or classes or description of premises;
- (c) that any class of consumers shall pay a deposit and the amount of such deposit;
- (d) a meter rent;
- (e) whether or not the general water rate shall be paid in addition to any charge for water consumed.

Supply by computed quantity.

Amended L.N. 161 of 1962.

17. (1) The Water Authority may at his option supply water by quantity to any premises within any defined area for any purpose whatever and the Minister may by statutory order prescribe a standard rate at which water may be so supplied and may similarly prescribe the method of computing the quantity of water taken for any particular purpose:

Provided that where any premises liable to the general water rate are supplied by quantity in accordance with the provisions of this section there shall be payable a rebate in the proportion which the general water rate bears to the sum of the general water rate and the internal supply rate, up to but not beyond an amount equal to the general water rate chargeable.

(2) The standard rate prescribed by any order made under subsection (1) of this section may be cited in that order as the "standard rate" for the defined area for which it is prescribed.

18. The Water Authority may in the case of any supply cause a meter to be fixed on any premises to measure such supply, and in such event the person liable for payment may be required to pay for meter rent as prescribed in the rules and for any excess water as registered by meter beyond the quantity of water which would have been allowed at the standard rate for the amount of the rates or other charges payable in respect of the supply.

Payment of
excess water
registered
by meter.
Amended
Ord. 1 of
1936.

19. Notwithstanding anything contained in this Act, the Water Authority may with the consent of the Minister supply water for any purpose to any person, body of persons or corporation within any defined area upon such terms and conditions as to payment or otherwise as the Minister may approve.

Supply by
agreement.
Amended
L.N. 161
of 1962.

PART V—PAYMENT OF RATES AND CHARGES.

20. The Minister may by notice appoint any person to collect and receive all rates and charges for water supplied and all meter rents and charges for work done by the Water Authority.

Appointment
of person for
collection of
moneys due.
Amended
L.N. 161
of 1962.

21. The general water rate and charges additional thereto shall be payable monthly in advance on the first day of each calendar month:

Payment of
general
water rate.

Provided that no general water rate shall be chargeable in respect of any premises unless and until a supply of water becomes available for those premises at a point not more than one thousand feet therefrom.

22. The internal supply rate and charges additional thereto shall be payable in advance on the first day of each calendar month and the first payment shall be made when the Water

Payment of
internal
supply rate.

Authority notifies the person requiring the supply that the service by which the water is to be supplied is available for that purpose.

Payment for water supplied by measured quantity.
Substituted Ord. 6 of 1951, s. 10.

23. Charges for water supplied by quantity measured by a meter shall be payable within fifteen days of an account being rendered by the Water Authority.

Payment for water supplied by computed quantity.
Substituted Ord. 6 of 1951, s. 10.

24. (1) The charges for water to be supplied by computed quantity shall be payable in advance or on the first day of each calendar month and the first payment shall be made when the Water Authority notifies the person requiring the supply that the service is available.

(2) The charges for water registered in excess of the computed quantity shall be payable within fifteen days of an account being rendered by the Water Authority.

Meter rent.
Added Ord. 6 of 1951, s. 11.

24A. Meter rent, if any, shall be paid at the same time as charges for water supplied are paid.

Rates and charges, where payable.

25. The rates, charges and meter rents payable under this Act shall be paid to such officer or at such office as the prescribed authority shall notify.

Liability for payment of rates and charges.
Amended Ord. 6 of 1951, s. 12.

26. (1) The occupier of any premises in respect of which the general water rate is payable shall be liable for payment thereof and for the charges additional thereto unless the annual value is less than the prescribed minimum value in which event the owner shall be liable.

(2) The occupier of any premises to which a service is laid shall be liable for the payment of the internal supply rate, any meter rent and any other charges payable for water supplied as provided in this Act unless the annual value is less than the prescribed minimum value in which event the owner shall be liable.

(3) When any premises are occupied by two or more persons each person shall be jointly and severally liable for the payments above-mentioned.

(4) When more premises than one are fed by a common supply pipe the owner of the premises shall be liable for all water charges.

27. Where any contractor makes default in payment for water supplied to him as contractor the person on whose behalf the work has been done or is to be done by the contractor shall be liable for such payment, and if he pays the same or the same is recovered from him he shall be deemed to have paid it on behalf of the contractor and may recover it accordingly.

Failure of contractor to pay for water supplied.

28. The Water Authority may cut off or withdraw the supply of water to any premises in respect of which the water rates or any other charges in connection with the supply are not fully paid within thirty days after notification by the prescribed authority.

Disconnection of water supply on non-payment of charges.

Substituted Ord. 26 of 1932, s. 4.

29. The occupier of any premises liable to the payment of any water rate who shall give notice of his intention to discontinue the use of the water for domestic or other purposes or who shall remove from the premises and shall give notice thereof shall pay the rates to the end of the calendar month in which such removal or discontinuance takes place:

Payment of rate after notice of discontinuance or after removal.

Substituted Ord. 26 of 1932, s. 5.

Provided that where the owner is liable for any rate such notice shall be given by the owner.

30. (1) No person shall be exempted from general water rate in respect of any premises by reason of the non-occupancy of such premises unless notice of such non-occupancy shall have been given to the prescribed authority.

Notice of non-occupancy required.

Added Ord. 26 of 1932, s. 6.

(2) Where any premises, not liable to general water rate by reason only of non-occupancy and notice as aforesaid, become liable to general water rate by reason of occupancy the owner thereof shall, within fifteen days after such occupancy commences, give notice thereof to the prescribed authority.

(3) The penalty for a breach of the provisions of this section shall be a fine not exceeding one hundred shillings.

31. If any person fails to pay any amount due by him under this Act within thirty days after notification of his liability as hereinbefore provided the prescribed authority may in his own name sue for or authorise any person on his behalf to sue for and recover such sum together with costs and the expenses of disconnecting the water supplied.

Action by prescribed authority for recovery of overdue amounts.

Amended Ord. 26 of 1932, s. 7.

Recovery of
overdue
amounts
from
occupier.

Added
Ord. 26 of
1932, s. 8.

32. If any sum for water rates or any other charges in connection with the supply of water to any premises, not being less than the prescribed minimum value, is not fully paid within the thirty days prescribed in section 28 of this Act the Water Authority or any person authorised by writing on his behalf may demand the same from the occupier of such premises and on non-payment thereof, within seven days of such demand may, without prejudice to any other remedy, recover the same by distress and sale of the goods or chattels found on the premises; and in such cases the occupier may deduct from the next and following payment of his rent any amount which was so paid by or recovered from him which was due from the owner:

Provided that no sum which was due and owing for more than two calendar months before demand was made shall be recovered in accordance with the provisions of this section.

Proof of
liability.

33. In any action for the recovery of any amount due under this Act a certificate under the hand of the prescribed authority or of any person authorised by the prescribed authority in that behalf that such amount is due and that the defendant is the person liable to pay the same shall, in the absence of evidence to the contrary, be conclusive evidence of such amount and of the non-payment thereof and that the defendant is the person liable for the payment thereof.

PART VI—GENERAL.

Injury,
diversion,
pollution.

Amended
Ord. 6 of
1951, s. 13.

34. Any person who tampers with or wilfully or negligently injures the waterworks, or any public fountain or any service through or with which water from the waterworks is supplied, or any meter installed by the Water Authority under this Act, or who unlawfully draws off, diverts or takes water from the same or from any catchment area from which the waterworks are supplied, or pollutes or causes risk of pollution to any such water; or allows any foul liquid gas or other noxious matter to enter into the waterworks or any pipe or fitting connected therewith, shall be liable to a fine not exceeding five hundred shillings and to a further fine of twenty shillings a day for each day while the offence continues:

Provided that nothing in this section shall be deemed to prohibit any person living within a catchment area drawing off for his domestic use up to one hundred gallons of water a day or such greater or lesser amount of water as the Water Authority may, subject to such conditions as he may impose, permit him in writing to draw off.

35. (1) Any person who wilfully or negligently misuses or wastes or causes or allows to be misused or wasted any water passing into, through or upon or near any premises from the waterworks shall be liable to a fine not exceeding one hundred shillings.

Misuse or waste of water.

Amended Ord. 6 of 1951, s. 14.

(2) The occupier of any premises where any water is wilfully or negligently misused or wasted shall be liable to a fine not exceeding one hundred shillings.

36. Any person who without the consent of the Water Authority or contrary to any rules alters or causes or permits to be altered any service through which water is supplied to any premises shall be liable to a fine not exceeding two hundred shillings.

Altering service.

37. Any person who alters or causes or permits to be altered any service with intent to avoid the accurate measurement or register of water by means of any meter or to obtain a greater supply of water than he is entitled to, and to avoid payment therefor or with such intent tampers with any meter shall be liable to a fine not exceeding eight hundred shillings; and any service so altered or meter injured may be replaced or repaired by the Water Authority at the expense of any person convicted under this section and the cost so incurred by the Water Authority may be recovered upon the order of the court as if it were a fine imposed by the court.

Fraudulent measurement.

38. Any person who uses any water supplied to him by the Water Authority for purposes other than those for which the water is supplied or for purposes in contravention of any prohibition under section 10A of this Act which may at the time be in force shall be liable to a fine not exceeding forty shillings; such fine shall not prejudice the right of the Water Authority to recover by civil suit the charge for the water improperly used.

Water used other than for purpose supplied.

Substituted Ord. 6 of 1951, s. 15.

38A. (1) No person shall construct or erect any building or structure over any main or pipe laid by a Water Authority save with the written permission of such Authority and subject to such conditions as such Authority may require for the protection of such main or pipe; any person who acts in contravention of this section shall be liable on conviction to a fine not exceeding one thousand shillings.

Erection of buildings, etc. over mains or pipes.

Added Ord. 6 of 1951, s. 16.

(2) Where any building or structure has been erected over any main or pipe contrary to the provisions of subsection

(1) of this section the Water Authority shall have power to carry out such works as may be necessary to protect the main or pipe and may remove if necessary such building or structure or any part thereof and the person responsible for erecting the building or structure shall be liable to pay the Authority the cost of any such protection or removal.

Water supplied to persons not entitled to supply.

39. Any owner or occupier of any premises supplied with water under this Act who gives to any other person or wilfully permits such other person to take any such water supplied, unless for the purpose of extinguishing a fire or unless he is a person entitled to be supplied with water under this Act and such water is cut off or is not available without his default, shall be liable to a fine not exceeding two hundred shillings.

Accumulations likely to enter waterworks.

40. Any person who puts or allows to be put or to remain or to accumulate on any premises occupied or owned by him or controlled by him or his servant or agent and who does not remove or cause to be removed or take such steps as may be necessary to prevent, upon notice in writing from the Water Authority, any foul, noisome or injurious matter or any earth, deposit or excavated material in such manner or place that it may be washed, fall or be carried into the waterworks or catchment area thereof shall be liable to a fine not exceeding five hundred shillings and for every day during which such matter, earth, deposit or material is allowed to remain after notice in writing from the Water Authority requiring the same to be removed to a further fine not exceeding forty shillings for each day while the offence continues.

Bathing, etc., in waterworks.

41. Any person who—

- (a) washes or bathes in any part of the waterworks or catchment area or in any vessel used by the Water Authority for supplying water from any public fountain;
 - (b) washes, throws or causes or permits any animal, clothing, material or thing to enter into any part of the waterworks or catchment area or in any vessel used by the Water Authority for supplying water from any public fountain; or
 - (c) wrongfully opens or closes any lock, cock, valve, sluice or manhole belonging to the waterworks,
- shall be liable to a fine not exceeding five hundred shillings.

42. When any act or omission punishable under this Act or any rules made thereunder is also punishable under any other written law for the time being in force the offender shall be liable to be prosecuted and punished either under this Act or under such other written law but shall not be liable to be punished twice for the same offence.

Offences
under other
laws.

43. (1) Notwithstanding the provisions of section 34, section 40 and paragraph (b) of section 41 of this Act, the Minister may, in his discretion and subject to such terms and conditions as he may impose, by statutory instrument, grant to any person a licence to erect and maintain water-pumping plant and equipment in any catchment area.

Exemptions.

Added
Ord. 19 of
1947, s. 2.
Amended
L.N. 161
of 1962.

(2) The Minister may at any time revoke or vary such licence.

44. The Minister may make rules for the more effective carrying out of the provisions of this Act and in particular and without prejudice to the generality of this power may make rules relating to all or any of the matters following and may apply all or any such rules to all defined areas or to any defined area in particular—

Rules.

Amended
Ord. 6 of
1951, s. 17.
L.N. 161
of 1962.

- (a) the method and manner in which water may be supplied from public fountains, the control of the supply and the price to be charged for water so supplied;
- (b) the construction, laying, fitting, alteration or readjustment of services, the nature, quality, size and pattern thereof and of meters used therewith and the charges for any work done by the Water Authority in respect thereto and the times and places for payment of such work and the person liable for such payment;
- (c) the rent to be paid for meters;
- (d) the suspension of any water supply;
- (e) the prevention of waste of water;
- (f) the inspection and testing of meters, pipes, fittings and other appliances whereby or in connection with which water is supplied to any premises;
- (g) the forms for applications for the supply of water to premises or for any work to be done under the provisions of this Act for which an application is necessary;

(h) the forms of all notices required to be given and sent under this Act and the issuing and service thereof.

Penalty for
breach of
rules.

Amended
L.N. 161
of 1962.

45. The Minister may prescribe for the breach of any rule made under the last foregoing section a fine not exceeding one hundred shillings:

Provided that where no penalty has been prescribed for the breach of any rule, such breach shall be punishable with a fine not exceeding fifty shillings.
