

CHAPTER 272

THE WATER SUPPLY AND SANITATION ACT

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CHAPTER 272

THE WATER SUPPLY AND SANITATION ACT

An Act to provide for sustainable management and adequate operation and transparent regulation of water supply and sanitation services; to provide for the establishment of water supply and sanitation authorities, Rural Water Agency, National Water Fund and community based water supply organisations; to provide for appointment of service providers, repeal of the Water Supply and Sanitation Act, 2009 and the Dar es Salaam Water and Sewerage Authority Act, 2001 and to provide for related matters.

[1st July, 2019]

[GN. No. 460 of 2019]

Act No.
5 of 2019

PART I

PRELIMINARY PROVISIONS

- Short title 1. This Act may be cited as the Water Supply and Sanitation Act.
- Application 2. This Act shall apply to Mainland Tanzania.
- Interpretation 3. In this Act, unless the context otherwise requires-
- “appurtenances” means pipes, cisterns, cocks, fittings and other appliances or structures, other than meters, through which water flows or is intended to be used for the purpose of supplying any premises from the waterworks;
- “authorised person” means an officer, servant or agent or any person acting on behalf of the water authority or EWURA;
- “Basin Water Board” means Basin Water Board established under the Water Resources Management Act;
- “Board” means the Board of Directors of a Water Supply and Sanitation Authority established under section 10;

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- “Chairman” means the Chairman of the Board of a Water Supply and Sanitation Authority and includes the Vice-Chairman and any person presiding at a meeting of the Board;
- “cluster” means merging of two or more water authorities or community organisations into one water authority or community organisation to achieve commercial viability, efficiency and economies of scale of water supply and sanitation services;
- “community” means a group of households, a village or a group of villages who receive their water supply from a common source, or one or more water points or a waterworks;
- “Community Organisation” means a community-based water supply organisation established under section 32;
- “consumer” includes any person or body of persons supplied, or applying to be supplied with, or using water from waterworks or receiving sanitation services, or who is liable for payment of any fees or other charges for the supply or use of water or sanitation services;
- “domestic purposes” includes the use of water solely for the purpose of meeting household and domestic needs and excludes any commercial activities;
- “EWURA” means the Energy and Water Utilities Regulatory Authority established under the Energy and Water Utilities Regulatory Authority Act;
- “fire service” means any pipes and fittings used for the sole purpose of supplying water to premises to combat fire;
- “Fund” means the National Water Fund established under section 55;
- “household” means premises which are occupied by a family unit for domestic purposes;
- “implementing agency” means RUWASA, water authority, community organisation, Basin Water Board or any entity which receive funds from the Fund for implementation of water project;

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“local government authority” means a district authority or an urban authority as established under the Local Government (District Authorities) Act and the Local Government (Urban Authorities) Act;

“mains” includes any water pipe based and maintained by a water supply and sanitation authority including connections to the mains;

“Managing Director” means the Managing Director of the Water Supply and Sanitation Authority appointed in accordance with section 17(1);

“meter” means an appliance, apparatus or device used to measure, ascertain or regulate, the rate of flow or the amount of water taken or used from the waterworks and includes any meter box, meter box cover and indicator marking the position and size of the meter;

“Minister” means the Minister responsible for water;

“misuse of water” means any use of water from waterworks for the purpose other than the purposes specified in respect of that water work;

“occupier” means any person who is in occupation of the land or premises in connection with which the term is used;

“owner” in relation to any premises, means the owner of the premises or the person for the time being receiving the rent in respect of the premises in question, whether on his own account or as agent or trustee for any other person, or who would receive it where the premises were let at a rent;

“pollute” means directly or indirectly to alter the physical, thermal, chemical, biological or radioactive properties of water so as to render such water less fit for any beneficial purpose for which it is, or may reasonably be used, or cause a condition which is hazardous or potentially hazardous to public health, safety welfare or to animals, birds, fish or aquatic life, or organism or to plant and “pollution” has corresponding meaning;

“premises” means any structure, building or part of a building, and includes any land with or without buildings which is held or occupied as a distinct or separate holding or tenancy;

“private sewer” includes a privately constructed pipe, conduit, underground gutter or channel, other than a building sewer, which may be connected to a private sewerage installation-

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

“private sewerage installation” includes privately constructed latrine, septic tank or other sewerage system and all fittings connected thereto but does not include a building sewer;

“public tap” means any fountain, standpipe, tap, trough, valve or other appliance or structure erected, provided or maintained by or on behalf of a water supply and sanitation authority or a community-based water supply organisation for the purpose of supplying water to its consumers;

“RUWASA” means the Rural Water Supply and Sanitation Agency established under section 42;

“sanitation” means the provision of appropriate facilities and services for the collection and disposal of human excreta and waste waters;

“sanitation works” means sewers, drains, pipes, ducts or channels, whether open or closed, used for the drainage of human excreta or waste waters from buildings or land, and on-site systems for the reception of human excreta and waste waters which do not connect to a sewer;

“service provider” means a service provider appointed in accordance with sections 19 and 37;

“sewer” means any pipe or conduit other than a drain used, or for use, for the conveyance of sewage;

- “trade waste agreement” means an agreement between a water authority and any person for the discharge of waste into a sewer or storage or treatment of waste by the water authority, and includes such terms, manner and periods as the water authority may decide or as may be prescribed;
- “water authority” means a water supply and sanitation authority established under section 9;
- “water point” means a single source of water, which may be a well, a borehole, a tap or a public tap;
- “water project” means project for the construction, expansion or rehabilitation of water supply and sanitation infrastructure as well as development, protection and conservation of water resources;
- “water supply” means the provision of appropriate facilities and services for the sourcing, treatment and distribution of potable water;
- “waterworks” includes all gathering grounds, off-takes, reservoirs, dams, weirs, tanks, cisterns, tunnels, filter beds, conduits, aqueducts, mains, pipes, meters, fountains, sluices, valves, hydrants, pumps, prime movers and all other structures and appliances used or constructed for the storage, conveyance, supply, measurement or regulation of water, which are used or have been constructed by or on behalf of a water supply and sanitation authority or a community based water supply organisation; and
- “waterworks area” means any area of land or of water delineated by the Minister as an area connected with the supply of any waterworks.

PART II

OBJECTIVES AND PRINCIPLES

Objectives and principles

- 4.–(1) The objective of this Act is to promote and ensure the right of every person in Tanzania to have access to efficient, effective and sustainable water supply and sanitation services

for all purposes by taking into account the fundamental principles of-

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

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

PART III

ADMINISTRATION AND INSTITUTIONAL SET UP

Powers of
Minister

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

- (a) determine legislative aspects of the provision of water supply and sanitation services;
- (b) determine policy and strategy aspects of the provision of water supply and sanitation services;
- (c) coordinate technical and financial support for water supply and sanitation services;
- (d) coordinate planning and resource mobilisation for water supply and sanitation services through external support, Non-Governmental Organisations and the public;
- (e) ensure the provision of the technical guidance to Water Supply and Sanitation Authorities and RUWASA;
- (f) coordinate and monitor water authority strategies and plans;
- (g) monitor performance of and regulate community-based water supply organisations;
- (h) supervise implementation of the provisions of water supply and sanitation services;
- (i) cause to be prepared the National Water Sector Master Plan developed under the Water Resources Management Act; and
- (j) facilitate provisions of low-cost technologies of water supply and sanitation services to communities.

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Responsibility
of Minister
responsible for
local government

6. For the purpose of implementation of this Act, the Minister responsible for local government shall be responsible for creating a conducive environment for-

- (a) community and private sector participation in development, operation and management of water supply and sanitation services; and
- (b) water authorities, RUWASA and community organisations in the execution of functions connected with provisions of water supply and sanitation services.

Responsibility
of Regional
Secretariat
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7. With respect to the implementation of this Act and without prejudice to the Regional Administration Act, the Regional Secretariat shall-

- (a) coordinate and follow up status of planning and implementation of water supply and sanitation services in the Region; and
- (b) create a conducive environment for water authorities, RUWASA and Community Organisations in the execution of functions connected with provisions of water supply and sanitation services in the Region.

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

- (a) the urban authority and district authority shall-
 - (i) coordinate physical planning with the water authorities and community organisations; and
 - (ii) set aside funds from own sources for water supply and sanitation projects;
- (b) with regard to community-based water supply organisations district councils shall-
 - (i) facilitate the acquisition by communities desirous of owning and managing their water schemes of certificates of title prior to the communities taking over responsibility;
 - (ii) mobilise communities to take over water supply schemes;

- (iii) approve by-laws for protection of water sources, operations of community organisations and other service providers; and
- (iv) promote provision of sanitation facilities in the areas of community based water supply schemes;
- (c) with regard to community based water supply organisations, village councils shall-
 - (i) promote the establishment of community organisations;
 - (ii) co-ordinate community organisation budgets with village council budgets; and
 - (iii) resolve conflicts within community organisations.

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

PART IV

WATER SUPPLY AND SANITATION AUTHORITIES

(a) Establishment of Water Supply and Sanitation Authorities

Establishment of
water authority

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

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

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

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

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

(5) A water authority shall be a body corporate with perpetual succession and a common seal and in its corporate name be capable of -

- (a) suing and being sued;
- (b) acquiring, holding and disposing of movable and immovable property;
- (c) exercising the powers and performing the functions conferred upon it by or under this Act; and
- (d) entering into any contract or other transactions, and doing or suffering to do all other acts and things which a body corporate may lawfully perform, do or suffer to be done.

(6) The common seal of water authority shall be dully affixed if witnessed under the hand of the Chairman and or the Managing Director or the secretary of water authority and such affixation on any document executed or authenticated shall be judicially noticed.

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

(8) Notwithstanding the preceding provisions of this section, the Attorney General shall have the right, to intervene in any suit or matter instituted by or against the Authority.

(9) Where the Attorney General intervenes in any matter in pursuance of subsection (8), the provisions of the Government Proceedings Act, shall apply in relation to the proceedings of that suit or matter as if it had been instituted by or against the Government:

Cap. 5 Provided that, the requirement of ninety days' notice of intention to sue the Government as stipulated under the Government Proceedings Act shall not apply where the Attorney General intervenes under this section.

Board of Directors of water authorities

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

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

(3) The Minister may, by order published in the *Gazette*, amend the First Schedule.

Appointment of members of Board

11. The Minister shall, upon consultation with the Minister responsible for local government, appoint the Chairman and not more than ten members of the Board of the water authority.

Powers of Board

12.—(1) The Board shall be responsible and accountable for carrying out the functions and managing the business and affairs of water authority and in particular shall-

- (a) advise the Minister on matters relating to water supply and management;
- (b) approve any business plan for purposes of water authority;
- (c) establish committees from its members for purposes of water authority and delegate any functions to any of those committees;
- (d) consider legislative proposals relating to water and the supply of it and recommend their enactment to the Minister;
- (e) give directions of any nature to the Managing Director; and
- (f) recommend to EWURA any changes to water tariffs and other charges made for the services provided by water authority.

(2) Subject to subsection (5), the Board may, by instrument, appoint and delegate on such terms and conditions as it may

specify, to any of the employees of the water authority or any Committee appointed by it any of the functions, powers, authorities or duties conferred upon it by or under this Act.

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

(4) Delegation made shall not prevent the Board from itself performing or exercising the function, power or duty delegated.

(5) Notwithstanding subsection (2), the Board shall not delegate its function, power, authority or duty in relation to-

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

Obligation to provide water supply and sanitation services

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

- (a) a person provides such services solely for that person's own use; or
- (b) a community-based water supply organisation provides such services for a defined area within the water authority's area of jurisdiction.

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

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

Licensing of
water
authorities

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

Powers and
functions of water
authorities

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

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

(3) Without prejudice to section 14 a water authority may, for the purpose of the provision of water supply and sanitation services and in accordance with its business plan purchase, lease or otherwise acquire—

- (a) premises, plant, equipment and facilities; and
- (b) land, or arrange for compulsory acquisition under this Act and any other relevant law.

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

Transfer of
existing assets

16.—(1) The ownership of waterworks, plant, equipment and other assets used by the Government, local government authorities or community organisations in connection with water and sanitation services together with any associated liabilities shall, without any compensation of the costs incurred, be transferred to the water authority upon its establishment.

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

Managing
Director

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

(2) The Board shall make the recommendation in subsection (1) on the basis of a competitive recruitment process.

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

(a) is a holder of a degree or its equivalent from a recognised institution;

(b) possesses at least five years experience in managerial position or such other qualification as may be required; and

(c) in the opinion of the Board, is suitable to perform the functions and duties competently and with integrity.

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

(5) The Managing director shall not participate in any deliberations or decisions of the Board relating to his terms and conditions of employment.

Staff of water
supply and
sanitation
authority

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

Appointment of
service provider

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

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

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

- (a) the concurrent performance, by the water authority and the service provider, of the same functions in different parts of the area of jurisdiction of the water authority;
- (b) the indemnity by the service provider of any liability of the water authority arising from the performance or non-performance of functions conferred by the licence; and
- (c) the maintenance, rehabilitation and development, by the service provider, of water and sanitation infrastructure and facilities of the water supply and sanitation authority.

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

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

(b) Functions of Water Supply and Sanitation Authorities

Functions of
water supply
and sanitation
authority

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

- (a) provide water supply and sanitation services for uses as are required by this Act or any other written law dealing with the management of water resources, water quality standards and the environment;
- (b) secure the continued supply of water for all lawful purposes by continuously treating water and monitoring the quality of water supplied at such times and in such a manner as may be prescribed in the water quality standards or regulations made under this Act;
- (c) develop and maintain waterworks and sanitation works;

- (d) in consultation with relevant authorities protect and maintain water sources;
- (e) advise the Government in the formulation of policies and guidelines relating to potable water standards;
- (f) plan and execute new projects for the supply of water and the provision of sanitation;
- (g) educate and provide information to persons on public health aspects of water supply, water conservation, sanitation, and similar issues;
- (h) liaise with relevant government authorities on matters relating to water supply and sanitation and the preparation and execution of plans relating to the expansion thereof;
- (i) collect fees and levies including any regulatory levy for water supply and sanitation services supplied to consumers by the water authority;
- (j) provide bulk procurement and distribution of water chemicals and materials to ensure availability of water chemicals and materials which meet required standards;
- (k) propose water supply and sanitation tariffs;
- (l) provide amenities or facilities which the water authority considers necessary or desirable for persons making use of the services or the facilities provided by the water authority; and
- (m) do anything or enter into any transaction which, in the opinion of the Board of the water authority, is calculated to facilitate the proper exercise of the functions of the water authority under this Act.

(c) Powers of Water Supply and Sanitation Authorities

Powers and duties of water supply and sanitation authority

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

- (a) keep custody, acquire, through compulsory purchase, construct and operate waterworks and sanitation works;

- (b) have way leave to enter any land for the purpose of laying water mains or sewers, or erecting a public tap;
- (c) install water meters for the purpose of measuring the amount of water supplied to a consumer;
- (d) charge fees for services rendered;
- (e) enter into an agreement with the owner or occupier of land for more effectively collecting, conveying or preserving the purity of water which the water authority is authorised to take;
- (f) restrict, diminish, withhold or suspend the supply of water;
- (g) supply water fittings to any person to whom a water authority supplies water;
- (h) enter into a trade waste agreement for the discharge of waste into a sewerage system;
- (i) prohibit the discharge of certain wastes into a sewerage system;
- (j) enter premises for any purpose related to the provision of water supply and sanitation services to consumers;
- (k) promulgate by-laws for the better performance of functions stipulated under this Act; and
- (l) produce and sale bulk water to retailers.

Way leave of
waterworks

22.—(1) Where the Water Authority or service provider has in relation to any land, taken steps towards fulfillment of conditions stipulated under section 21, it shall assume control over-

- (a) thirty metres of such land being fifteen metres from centre of a pipe sized 1200 mm and above;
 - (b) ten metres being five metres from centre of a pipe ranging from 400 mm to less than 1200 mm; and
 - (c) four metres of such land being two metres from centre of the pipe ranging from 150 mm to less than 400 mm,
- and a person shall not be permitted to enter and stay or do anything upon that land without the permission of water authority or service provider.

(2) Water authority shall, in consultation with relevant authorities, demarcate way leave by installing visible signs or beacons.

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(3) For purposes of subsection (1), the Authority may acquire any land in accordance with the procedures stipulated under the Land Acquisition Act and the Land Act.

Service to
economically
disadvantaged
persons

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

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

(2) Water authority in collaboration with the local government authority shall identify the economically disadvantaged persons.

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(3) For purposes of subsection (1), the Authority may acquire any land in accordance with the procedures stipulated under the Land Acquisition Act and the Land Act.

PART V FINANCIAL PROVISIONS FOR WATER AUTHORITY

Funds of water
authority

24. The funds and resources of a water authority shall consist of-

- (a) the sums as may be appropriated by Parliament for purposes of a water authority;
- (b) any sums which a water authority may receive as fees, rates or charges for water supplied or any services rendered by it;
- (c) the sums or property which may vest in a water authority under this Act or any other written law or otherwise vested in a water authority;

- (d) the sums as may be received from the local government authorities in its area of responsibility;
- (e) the sums as may be borrowed by the water authority from any source;
- (f) the donations, grants, bequests and loans as the Board may, receive from any person or body of persons; and
- (g) any other sources legally acquired in the process of performance of its functions.

Annual and
Supplementary
Budget

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

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

(3) The annual budget prepared under this section shall form part of the business plan to be submitted to EWURA.

Accounts and
audit

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

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

(3) Audited financial statements shall be placed before a meeting of the Board and, where adopted by the Board, be endorsed with a certificate that it has been adopted.

(4) As soon as the accounts of a water authority have been audited, and in any case not later than six months after the close of the financial year, the Board shall submit to the Minister a

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copy of the audited statement of accounts together with a copy of the report on that statement made by the auditors.

Annual report

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

(2) The report shall be accompanied by-

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

(3) A water authority shall also submit to EWURA such other reports on its financial affairs as EWURA may by writing request.

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

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

PART VI

ENERGY AND WATER UTILITIES REGULATORY AUTHORITY

(a) Regulation of Functions

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

(b) *Licensing Procedures*

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

- (a) exercise licensing and regulatory functions in respect of water supply and sanitation services;
- (b) establish standards relating to equipment attached to the water and sanitation system;
- (c) establish guidelines on tariffs chargeable for the provisions of water supply and sanitation services;
- (d) approve tariffs chargeable for the provision of water supply and sanitation services;
- (e) monitor water quality and standards of performance for the provision of water supply and sanitation services;
- (f) initiate and conduct investigations in relation to the quality of water and standards of service given to consumers;
- (g) conduct studies necessary for administrative or management purposes;
- (h) collect and compile data on licensees as it considers necessary for the performance of its functions under this Act;
- (i) issue orders or give directions to any person granted a licence in respect of a regulated activity under this Act or other written law;
- (j) subject to section 20(i), charge levies, and fees applicable to water authority and other sector participants in respect of regulatory activities of the EWURA charged in accordance with section 41 of the Energy and Water Utilities Regulatory Authority Act;
- (k) establish or approve standards and codes of conduct in respect of-
 - (i) licensees;
 - (ii) consumers; and
 - (iii) public safety;

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- (l) promote the development of water supply and sanitation services in accordance with recognised international standard practices and public demand;
- (m) prescribe rules and declaration and cause the same to be published in the *Gazette* and in at least one Kiswahili and one English newspaper circulating in a water authority's area of jurisdiction; and
- (n) perform other functions which are incidental or ancillary to the functions stipulated under this section.

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(2) Notwithstanding the provisions of the Energy and Water Utilities Regulatory Authority Act, the annual report prepared for submission to the Minister responsible for EWURA shall, in respect of regulation of water authorities and services, include-

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

Procedure for
obtaining licence

30.-(1) A person other than a community organisation shall not provide water supply and sanitation services except under authority of a licence issued under this Act.

(2) EWURA shall prescribe the rules and procedures for the purpose of this section.

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

Conditions of
licence

31. A licensee issued with a licence under this Part shall-

- (a) construct and maintain water supply mains and where necessary according to its licence, sewerage systems to the boundary of a consumer's property;
- (b) operate in accordance with its business plans;

- (c) comply with directives or orders issued by EWURA in the exercise of its functions under this Act;
- (d) keep a record of its water supply and sanitation services in a form specified by EWURA and submit the record to EWURA every year from the commencement of the licence; and
- (e) comply with any other condition issued by EWURA for the proper delivery of its water supply and sanitation services.

PART VII

COMMUNITY BASED WATER SUPPLY ORGANISATIONS

Establishment of
community-based
water supply
organisations

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

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

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

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

(4) Notwithstanding the provisions of subsection (2), a community-based water supply organisation established shall form its association in accordance with its constitution or memorandum of agreement.

Powers and functions of community-based water supply organisations

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

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

(2) Notwithstanding the provisions of sections 32(3) and 33(1), where a water scheme operated or to be operated by a community organisation is developed through grant, donation or investment by community or Government, the ownership of such scheme shall be public.

Constitution of community organisations

34.—(1) The proposed members of a community organisation shall prepare a constitution or memorandum of agreement substantively in the form set out in the Second Schedule and

submit such constitution or memorandum of agreement to RUWASA for approval subject to the consultation of the relevant local government authority.

(2) Upon request of a community or group of water consumers intending to establish an association, RUWASA shall provide assistance in formulating the constitution or memorandum of agreement.

(3) A Community Water Committee shall be the governing body responsible for overseeing operations of the community organisation and shall be elected and have the powers as set out in the constitution or memorandum of agreement prepared under subsection (1).

(4) A Community Water Management Team shall be the executive organ responsible for day to day operations of the community organisation and shall perform functions as set out in section 33(1) and the constitution or memorandum of agreement of the community organisation prepared under subsection (1).

(5) A Community Water Management Team shall submit to RUWASA reports regarding performance of the water scheme, functional and non-functional water points, major breakdowns and financial affairs of the community organisations.

Registration
of community
organisations

35.-(1) Upon approval of the constitution or memorandum of agreement, and the community organisation's establishment under the provisions of any other law, the community organisation shall be registered in accordance with the procedure as shall be prescribed by the Minister and published in the *Gazette*.

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

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

Clustering of community water organisations

36.—(1) Notwithstanding the provisions of sections 33, 34 and 35, RUWASA may cluster community organisations into one community organisation in order to achieve efficiency and economies of scale.

(2) In clustering community organisations under subsection (1), RUWASA shall consult respective community organisations and other relevant authorities.

(3) Upon clustering under subsection (1), all assets and infrastructure used by the clustered community organisations in connection with provision of water services, shall vest to the clustered community organisation.

Appointment of service providers

37.—(1) For purposes of section 33, a community organisation may, arrange for the exercise of powers and performance of its functions by one or more agents, to be known as service providers.

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

PART VIII

FINANCIAL PROVISIONS FOR COMMUNITY-BASED WATER SUPPLY ORGANISATIONS

Sources of funds

38. The sources of funds for community-based water supply organisations shall be-

- (a) the water tariffs or water charges payable to it by each consumer using the water scheme;
- (b) any contributions by its members and financial support from the communities;
- (c) any moneys that may be payable by members under its constitution;
- (d) any moneys that the community organisation may obtain with the approval of the Minister from donations, loans or other financial assistance;

- (e) any such sums as may be set aside by local government authority as percentage of their revenue for community organisation on projects; and
- (f) any moneys that may be contributed by the respective local government authority to finance construction of new schemes, rehabilitation and expansion of existing schemes.

Financial support to community-based water supply organisations

39.—(1) Subject to subsection (3), local government authorities may give assistance to community organisation to enable them to perform their functions under this Act.

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

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

- (a) need for equity;
- (b) need for transparency;
- (c) purpose of the financial assistance; and
- (d) financial position of the recipient.

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

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

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

Accounts and audit of community organisations
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40.—(1) The accounts of community organisations shall be audited in accordance with the Public Audit Act.

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

PART IX
MONITORING AND REGULATION
OF COMMUNITY-BASED WATER
SUPPLY ORGANISATIONS

Monitoring
and regulation
of community
organisations

41.—(1) RUWASA shall carry out monitoring and regulations of community based water supply organisations, and in particular shall-

- (a) establish standards and codes of conduct in respect of the community organisation and its consumers;
- (b) monitor water quality and standards of performance of the community organisation in the provision of the water supply services;
- (c) conduct studies required for administrative or management purposes;
- (d) promote the development of water supply services in communities, including linkages with sanitation measures;
- (e) perform other functions which are incidental or ancillary to the functions stipulated under this subsection; and
- (f) provide guidelines for monitoring and regulation of community organisations.

(2) The Minister shall provide guidelines, by a notice published in the *Gazette* for the establishment and conduct of affairs of community organisation.

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

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

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

- (b) settlement of disputes between a community organisation and its service providers;
- (c) settlement of disputes between community organisations *inter se*;
- (d) failure of a community organisation to provide services; or
- (e) any other matter which, in the opinion of RUWASA, is contrary to the interest of its consumers.

PART X

ESTABLISHMENT OF RURAL WATER SUPPLY AND SANITATION AGENCY

(a) Establishment of Rural Water Supply and Sanitation Agency

Establishment of
RUWASA

42.—(1) There is hereby established an Agency to be known as the “Rural Water Supply and Sanitation Agency with its acronym “RUWASA”.

(2) The RUWASA shall be a body corporate with perpetual succession and a common seal and shall be capable of-

- (a) suing and being sued in its corporate name;
- (b) borrowing, acquiring, holding and dispose of movable and immovable property; and
- (c) entering into any contract or transaction and doing all such other things as a body corporate may lawfully do.

(3) Notwithstanding the preceding provisions of this section, the Attorney General shall have the right, to intervene in any suit or matter instituted by or against the Authority.

(4) Where the Attorney General intervenes in any matter in pursuance of subsection (3), the provisions of the Government Proceedings Act, shall apply in relation to the proceedings of that suit or matter as if it had been instituted by or against the Government:

Provided that, the requirement of ninety days notice of intention to sue the Government as stipulated under the Government Proceedings Act shall not apply where the Attorney General intervenes under this section.

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Functions of
RUWASA

43.—(1) The RUWASA shall be responsible for development and sustainable management of rural water supply and sanitation projects.

(2) Without prejudice to the generality of subsection (1) RUWASA shall-

- (a) plan, design, construct and supervise rural water supply projects;
- (b) conduct ground water survey including prospecting and explorations, and undertake drilling operations including water well flushing and pumping test, and rehabilitation of water wells;
- (c) design and construct dams of different types and carry out geotechnical and soil investigation for dam construction and other civil engineering structures;
- (d) monitor and evaluate performance of community organisations in relation to rural water supply and sanitation services;
- (e) promote and sensitise rural communities on sanitation, hygiene education and practice as well as protection and conservation of rural water sources;
- (f) provide financial and technical support to community organisations for major maintenance of rural water schemes;
- (g) provide support to community organisations in relation to management, operation and maintenance of rural water supply schemes;
- (h) advise the Minister on issues related to rural water supply and sanitation;
- (i) facilitate participation of communities in the identification, planning, construction, and management of rural water and sanitation projects;
- (j) facilitate private sector engagement in the provision of the rural water supply and sanitation services;
- (k) facilitate training and capacity building to community organisations in financial, technical and management of rural water supply schemes;

- (l) register and regulate the performance of community organisations according to this Act and regulations made by the Minister; and
- (m) undertake any other initiative or activity aimed at ensuring the Agency attain its objectives.

(b) Board of Directors of Rural Water Supply and Sanitation Agency

Establishment
of Board

44.—(1) There shall be a Board to be known as the Rural Water Supply and Sanitation Agency Board.

(2) The Third Schedule shall have effect in respect with the composition of the Board of RUWASA, appointment, removal and tenure of its members, proceedings of the Board of RUWASA and such matters in relation to the Board and its members.

(3) Except for the provision relating to the appointment of Chairman of the Board of RUWASA, the Minister may, by order published in the *Gazette* amend the Third Schedule.

Functions
of Board

45.—(1) The Board of RUWASA shall be responsible and accountable for carrying out the functions and managing the business and affairs of RUWASA.

(2) Without prejudice to subsection (1), the Board of RUWASA may, by instrument, appoint and delegate on such terms and conditions as it may specify, to any of the employees of RUWASA or any Committee appointed by it any of the functions, powers, authorities or duties conferred upon it by or under this Act.

Director General
and other
employees

46.—(1) There shall be a Director General who shall be appointed by the Minister on the competitive selection procedure after recommendation of the Board of RUWASA for a term not exceeding five years and shall be eligible for re-appointment for one further term only.

(2) A person shall not be qualified for appointment as a Director General unless he-

- (a) is a holder of a degree or its equivalent from a recognised institution;
- (b) possesses at least eight years experience in managerial position or such other qualification as may be required;
- (c) has knowledge and experience of water sector;
- (d) has satisfied the Board that he is unlikely to have conflict of interest with the principal functions of RUWASA; and
- (e) is, in the opinion of the Board otherwise well suited to execute the functions of RUWASA.

(3) The Director General shall not be engaged in any other paid employment, and shall not participate in any deliberations or decisions of the Board of RUWASA relating to his terms and conditions of employment.

(4) The Board of RUWASA may appoint such number of employees as may be necessary for efficient and effective performance of the functions and day to day operations of RUWASA upon such terms and conditions as it may determine.

*(c) Duties of RUWASA in relation
to Community Organisations*

Payments by
RUWASA

47. The RUWASA shall, in relation to water works executed in rural areas make payment for purposes of-

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

Cooperation of
local government
authorities

48. The RUWASA shall cooperate with local government authorities in exercising any of the following duties:

- (a) facilitating the acquisition by all water organisations developing water schemes of certificates of title prior to the commencement of the schemes;
- (b) mobilising rural communities and provide technical and financial support in the implementation of water development programmes;
- (c) implementing defined regulatory roles with respect to protection of water sources, community organisations and service providers;
- (d) mobilising revenue for the purpose of supporting the development, operation and maintenance of water schemes;
- (e) facilitating and encouraging the communities to construct, maintain and control of water points, and sanitation facilities in any household or within the community organisation's area;
- (f) promoting efficient water use, pollution control and take measures for the conservation and the protection of water sources, waterworks, streams, rivers, springs and other water sources within its area;
- (g) promoting registration of community organisations in order to facilitate ownership of water schemes to them; and
- (h) submit plans and operational reports to full councils for information.

Cooperation
with Regional
and District
Administration

49. In the exercise of its mandate under this Act, RUWASA shall have obligation to submit reports on its operations to Regional and District Administration forums including Regional Consultative Councils and District Consultative Councils.

(d) Financial Provisions

- Funding sources **50.**—(1) The sources of funds for RUWASA shall consist of:
- (a) monies as may be appropriated by Parliament;
 - (b) donations, grants and bequeaths;
 - (c) monies as may be payable by the Fund;
 - (d) monies as may be payable by the customers for the service rendered; and
 - (e) such other monies as may, by or under any Act, be payable to RUWASA.
- (2) The RUWASA shall disclose details of the sources of funds in the Annual Report.
- Budget **51.**—(1) Before the end of each financial year, RUWASA shall prepare a budget for the following financial year showing estimates of its receipts and expenditure of the following financial year.
- (2) Subject to the provisions of subsection (1), RUWASA shall inform the Minister of its budget of the following financial year by submitting a copy of the budget to the Minister not less than two months before the end of a financial year.
- Accounts and audit
Cap. 418 **52.**—(1) The Board of RUWASA shall in every financial year cause to be provided and kept proper books of account in accordance with the Public Audit Act.
- Cap. 418 (2) Within six months of the close of every financial year the accounts including the financial statements of RUWASA shall be audited by the Controller and Auditor-General in accordance with the provisions of the Public Audit Act.
- (3) Audited financial statements shall be placed before a meeting of the Board and, where adopted by the Board of RUWASA, be endorsed with a certificate that it has been adopted.
- (4) As soon as the accounts of RUWASA have been audited, and in any case not later than six months after the close of the financial year, the Board of RUWASA shall submit to the Minister a copy of the audited statement of accounts together with a copy of the report on that statement made by the auditors.

- Annual reports **53.**—(1) On or before 30th December each year, RUWASA shall prepare an annual report in respect of that year up to the immediately preceding 30th June and submit it to the Minister.
- (2) The annual report shall provide detailed information regarding the exercise of the functions and powers of RUWASA during the year to which it relates and include-
- (a) a copy of the audited account of RUWASA;
 - (b) a copy of a report of the Controller and Auditor-General on the performance audit carried out during the year to which the annual report relates; and
 - (c) such information and other material as RUWASA may be required by this Act.
- (3) The Minister shall cause copies of each annual report to be laid before National Assembly within two months after he has received them or at next meeting of the National Assembly.

PART XI CODES OF WORKMANSHIP

- Codes of workmanship **54.**—(1) The Minister shall prescribe codes of workmanship in respect of the construction, operation and maintenance of any-
- (a) works for the provision of water supply and sanitation services by water supply and sanitation authorities or community based water supply organisations under this Act; and
 - (b) private water supply or sanitation systems.
- (2) A code of workmanship may without limitation include -
- (a) design, construction, alteration, operational and maintenance;
 - (b) types of machinery, materials, fittings or appliances which may be used in;
 - (c) the requirement for waterworks and sanitation works to only be executed by, or under the direct supervision of a person holding prescribed qualifications;

- (d) the procedures for obtaining approval for the works where necessary; and
- (e) any other thing connected with it.

PART XII NATIONAL WATER FUND

Establishment of
National Water
Fund

55.—(1) There is hereby established a Fund which shall be known as the National Water Fund.

(2) The objectives of the Fund shall be to mobilise resources and provide investment support for water service provision, and the management of catchment areas serving water supply abstractions.

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

- (a) such moneys as may be appropriated by Parliament for purposes of the Fund;
- (b) such moneys as may be received by the Fund from donations, grants, and bequests from whatever source;
- (c) such other sources of money as the Minister may, upon consultation with the Minister responsible for finance determine; and
- (d) such other moneys as may, by or under any Act, be payable to the Fund.

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

(5) The Minister may make regulations prescribing procedures for the performance of the functions and the use of the funds for the operations of the Fund.

Functions
of Fund

56. The functions of the Fund established under section 55 shall be-

- (a) to mobilise financial resources necessary for fulfillment of its objectives under this Act;
- (b) to disburse funds to implementing agencies for the purpose of execution of water projects;

- (c) to issue loans on favourable terms, to implementing agencies for investments in water service provisions;
- (d) to monitor the use of the funds disbursed to implementing agencies;
- (e) to facilitate capacity building of implementing agencies to improve and enhance their ability in execution and management of water projects;
- (f) recommend to the Minister guidelines for issuance of loans to water authorities; and
- (g) develop operational guidelines on issuance of loans and grants to implementing agencies.

Use of funds

57.—(1) The resources of the Fund shall be applied for-

- (a) issuance of funds to implementing agency for execution of water projects;
- (b) payment or discharge of the expenses or obligations incurred in connection with the performance of the functions of the Fund and the Board of the Fund; and
- (c) payment of any remuneration or allowance of the members of the Board of the Fund and employees of the Fund.

(2) Without prejudice to subsection (1)(a) and subject to the approval by the Minister, the Board of the Fund shall cause to be prepared guidelines directing the manner in which the Fund may issue loans to implementing agencies.

(3) The funds deposited in the Fund shall not be used for any other purpose than those provided under this Act.

Establishment of Board of Fund

58.—(1) There shall be established a Board of the National Water Fund to be known as the “Board of the Fund” for the purpose of administering the functions of the Fund.

(2) The members of the Board of the Fund shall be appointed by the Minister and shall consist of persons who possess the qualities prescribed in the Fourth Schedule.

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

(4) Subject to the provisions of subsection (5), the Board may by instrument appoint and delegate on such terms and conditions as it may specify, to any employee of the Fund or any Committee appointed by it any of the functions, power, authorities or duties conferred upon it by or under this Act.

(5) The Board shall not delegate its powers or functions in relation to-

- (a) approval of the awarding of funds for execution of water projects;
- (b) approval of the terms and conditions for issuance of funds to implementing agencies;
- (c) approval of the plans and budget; and
- (d) approval of the annual reports and audited accounts.

(6) Except for the provision relating to the appointment of Chairman of Board of the Fund, the Minister may, by order published in the *Gazette* amend the Fourth Schedule.

Secretariat
of Fund

59.-(1) There shall be established an executive organ of the Fund to be known as the "Secretariat of the Fund" which shall be composed of the Chief Executive Officer and such other staff as may be necessary for proper functioning of the Fund.

(2) The Secretariat shall be headed by the Chief Executive Officer appointed by the Minister after recommendation of the Board of the Fund on the competitive selection procedure for the term not exceeding four years and upon satisfactory performance, shall be eligible for re-appointment for one further term only.

(3) A person shall not be qualified for appointment as Chief Executive Officer unless he-

- (a) is a holder of a degree or its equivalent from a recognised institution;
- (b) possesses at least five years experience in managerial position or such other qualification as may be required;
- (c) has satisfied the Board that he is unlikely to have conflict of interest with the principle functions of the Fund; and

(d) is, in the opinion of the Board otherwise well suited to execute the functions of the Fund.

(4) The Chief Executive Officer shall not be engaged in any other paid employment, and shall not participate in any deliberations or decisions of the Board of the Fund relating to his terms and conditions of employment.

(5) The Board of the Fund may appoint such number of staff as may be necessary for efficient and effective performance of the functions and day to day operations of the Fund upon such terms and conditions as it may determine.

(6) The Chief Executive Officer shall be the Secretary to the Board of the Fund.

Annual accounts
and audit of Fund
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60.—(1) The Board of the Fund shall cause to be provided and kept, proper books of accounts in accordance with the Public Audit Act.

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

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

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

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

PART XIII

OFFENCES AND PENALTIES

Damage to or interference with water works

61. A person, who damages, hinders, disrupts, diverts or interferes with water works or sanitation works or other assets owned or vested in a water authority or community organisation commits an offence and on conviction, shall be liable to a fine of not less than five hundred thousand shillings but not exceeding fifty million shillings or to imprisonment for a term of not less than two years but not exceeding five years or to both.

Unlawful abstraction of water

62.—(1) A person who abstract or draws off from water works water using a pipe, drain, pond, pump or other means whereby water may be conveyed or retained contrary to the provisions of this Act commits an offence.

(2) In any proceedings for an offence under subsection (1) proof of the existence of a pipe, drain, pond, pump or other means whereby water may be conveyed or retained, shall be *prima facie* evidence of the commission of the offence under subsection (1).

(3) A person convicted of an offence under this section shall be liable to a fine of not less than five hundred thousand shillings and not exceeding fifty million shillings or to imprisonment for a term of not less than twelve months and not more than five years or to both, and in addition to fine or imprisonment the court may issue an order requiring the person to remedy any damage or loss caused.

Misuse of water

63. A person who misuses or wastes, or causes or allows to be misused or wasted any water passing into, through or upon or near any premises from the waterworks, commits an offence and on conviction, shall be liable to a fine of not less than five hundred thousand shillings but not exceeding ten million shillings or to imprisonment for a term of not less than six months but not exceeding two years or to both.

Fraudulent
measurement

64.-(1) A person who alters or causes or permits to be altered any appurtenances with intent to avoid the accurate measurement or register of water by means of any meter or to obtain a greater supply of water than he is entitled to or to avoid payment for the supply of water or who interferes with or damages any meter, commits an offence and on conviction, shall be liable to a fine of not less than five hundred thousand shillings but not exceeding ten million shillings or to imprisonment for a term of not less than six months but not exceeding two years and in the case of subsequent conviction, to a fine of not less than ten million shillings but not exceeding twenty million shillings or to imprisonment for a term of not less than two years but not exceeding five years or to both.

(2) In addition to fine or imprisonment under this section, the court shall order the payment of cost incurred to repair or replace an appurtenances altered or meter damaged or interfered with, and the cost incurred shall be recovered from that person as a civil debt by way of summary suit.

Using water other
than for purposes
supplied

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

(2) A person who is convicted under subsection (1) shall be liable to a fine not exceeding five million shillings or imprisonment for a term not less than six months.

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

Bathing,
washing, etc. in
waterworks

66. A person who-

- (a) washes his person or bathes in any part of the waterworks or waterworks area or in any vessel used by a water authority or community organisation for supplying water from any public tap;
- (b) washes, throws or causes or permits to enter into waterworks or waterworks area or into any vessel used by a water authority or community organisation

for supplying water from any public tap, any animal, clothing, material or thing; or

- (c) wrongfully opens or closes any lock, cock, valve, or manhole of the waterworks,

commits an offence and on conviction, shall be liable to a fine of not less than fifty thousand shillings but not exceeding one million shillings or to imprisonment for a term of not less than one month but not exceeding three months or to both.

Water pollution

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

(2) Where the earth material or liquid under subsection (1) has been washed into waterworks or sanitation works, commits an offence and on conviction, shall be liable to a fine of not less than ten million shillings or to imprisonment for a term of not less than two years or to both.

(3) A person who on any part of the waterworks erects or inhabits or allows or causes to be erected or inhabited any structure whether of permanent or temporary nature or who inhabits any cave, cavity, depression or hole in any part of the waterworks, commits an offence and on conviction, shall be liable to a fine of not less than one million shillings but not exceeding ten million shillings or to imprisonment for a term of not less than six months but not exceeding two years or to both.

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

- (a) that person to remove any object or stop from doing any act or omission with respect to which an offence has been committed and such person shall comply forthwith with this order; and

- (b) the costs of remedying any damage or loss arising.

Prohibition to
dump waste

68.—(1) A person shall not dump, discharge or cause to be dumped or discharged any unauthorised waste into the sanitation works.

(2) A person who contravenes subsection (1) commits an offence and on conviction, shall be liable to a fine of not less than one million shillings but not exceeding three million shillings or to imprisonment for a term of not less than six months but not exceeding two years or to both.

Compounding of
offences

69.—(1) Notwithstanding the provisions of this Act relating to penalties, where a person admits in writing that he has committed an offence under this Act, the Managing Director may, at any time prior to the commencement of the hearing by a court of competent jurisdiction, compound such offence and order such person to pay—

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

(2) Where an offence is compounded in accordance with subsection (1) and proceeding are brought against the offender for the same offence, it shall be a good defence for the offender to prove to the satisfaction of the court that the offence with which the offender is charged has been compounded under subsection (1).

(3) Where the person fails to comply with the order issued under this section within the prescribed period, the Managing Director—

- (a) shall, in addition to sum ordered, require the person to pay an interest at the rate prescribed in the regulations; and
- (b) may enforce the order in the same manner as a decree of a court for the payment of the amount stated in the notification.

(4) The Minister may make regulations prescribing procedure for compounding offences under this Act.

PART XIV GENERAL PROVISIONS

Integrated
water resources
management plan
Cap. 331

70. A person or institution undertaking planning for water supply and sanitation developments under this Act, shall take into account the integrated water resources management plans prepared under the Water Resources Management Act.

Proof of liability

71. In any action for recovery of any amount due under this Act, a certificate under the hand of the Managing Director or any employee of a Water Authority so authorised on that behalf specifying the amount in question is due and that the defendant is the person liable to pay the money, shall in the absence of evidence to the contrary, be conclusive evidence of the amount which is due for payment by the defendant.

Summary
recovery

72.—(1) Where after the time fixed for the payment of any rate or bill, any person fails to pay the rate or bill due by him, the water authority or the community organisation shall cause a written demand to be served upon such person to pay the amount stated in such demand within thirty days after service of the demand.

(2) A person who fails to make payment in accordance with subsection (1), the water authority or the community organisation may apply to a competent court having jurisdiction for a summary of suit in the manner prescribed under the Civil Procedure Code.

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Power of
Minister to make
regulations

73.—(1) The Minister may make regulations providing for—

- (a) the forms of all notices required to be given or sent under this Act and the issuing and service of those notices;
- (b) the procedure for approval of project and implementation of the project cycle; and

(c) anything which may be prescribed under this Act.

(2) Any regulations made under this Act may provide that the contravention of any of their provisions shall constitute an offence and may prescribe penalties in respect of an offence committed.

Competitive
appointment of
Board Members

74. Without prejudice to the provisions of this Act and where appropriate, the Minister may use competitive recruitment procedures in making appointment of qualified persons to be members of Boards established under this Act.

Powers of
Minister to
dissolve water
authorities

75. The Minister shall, in consultation with the Minister responsible for local government authorities, have powers to dissolve water authorities in the event of the following circumstances:

- (a) clustering; or
- (b) where license of the Authority has been cancelled by EWURA.

Cessation of
Community
Organisations

76. Where there is a water authority and a community organisation, or the water authority extends water services to an area serviced by community organisation, the community organisation shall cease to operate and the water authority shall assume the provisions of water services in such area in accordance with regulations issued by the Minister.

Jurisdiction of
court
Cap. 11

77. Subject to the provisions of the Magistrates' Courts Act, offences under this Act may be tried in the primary court.

Civil proceedings
against water
authority

78. Notwithstanding any other provisions of this Act, civil proceedings may be instituted against the water authority provided a suit shall not be instituted against water authority unless the claimant previously submits to the water authority a notice of not less than thirty days of his intention to sue the water authority specifying the basis of his claim against the water authority.

Execution of
orders against
water authority

79. Notwithstanding anything to the contrary in any written law where any judgment, order or award has been obtained against water authority, an execution or attachment or process in the nature thereof shall not be issued against the water authority or against the property of the water authority but the Managing Director shall cause to be paid out of the revenue of the water authority such amount as may, by the judgment or order, be awarded against the water authority to the person entitled to it.

PART XV TRANSITIONAL PROVISIONS

Repeal and
Savings

80.—(1) [Repeals the Water Supply and Sanitation Act No. 12 of 2009 and Dar es Salaam Water and Sewerage Authority Act No. 20 of 2001].

(2) Notwithstanding the repeal of the Water Supply and Sanitation Act-

- (a) a water authority, community organisation or entity established under the Water Supply and Sanitation Act, which, immediately before the date of commencement of this Act was providing water supply and sanitation services within the meaning of this Act shall continue to exercise the same powers and functions in respect of the provision of water supply and sanitation services as it was exercising immediately before such date of commencement.
- (b) for the purposes of the exercise of powers and performance of functions in accordance with paragraph (a), the repealed provision of the Water Supply and Sanitation Act and the provisions of Local Government Acts and any rules, regulations and by-laws made for the purposes of such provision, shall be deemed to continue in force until repealed, revoked or replaced.

- (3) Notwithstanding the repeal of the DAWASA Act:
- (a) the Dar es Salaam Water and Sewerage Authority established under the DAWASA Act, which, immediately before the commencement of this Act was providing water supply and sewerage services within the meaning of the DAWASA Act shall continue to exercise the same powers and functions in respect of water supply and sewerage services as it was exercising immediately before that date, until the establishment of a new water authority under section 9 to take over the functions and duties performed by DAWASA;
 - (b) all appointments and directions made, issued or given under the provisions of the DAWASA Act shall continue to be valid unless they are revoked, cancelled or otherwise cease by reason of effluxion of time; and
 - (c) unless the context requires otherwise any reference in any written law to DAWASA Act shall be construed as references to the Water Supply and Sanitation Act.

Pending
disciplinary
proceedings

81. Where immediately before the day on which this Act comes into operation-

- (a) any disciplinary proceedings have been initiated against any employee of DAWASA and such proceedings are still pending before the court or Board or are in the course of being heard or any such matter likely to give rise to investigation by DAWASA and no other or decision had been rendered on it; or
- (b) any employee has been interdicted or suspended, the court or Board shall carry on and complete the hearing or such disciplinary proceedings and make an order or render such matter as it deems appropriate.

Management
of rural water
supply by water
authorities

82. The Minister shall retain residual powers of assigning execution of rural water projects and management of rural water supply and sanitation services to water authorities during the transitional period, pending operationalisation of RUWASA.

FIRST SCHEDULE

(Made under section 10(2))

MEMBERS AND PROCEDURE OF THE BOARD OF THE WATER AUTHORITY

Composition
of Board

1.—(1) The Board of Directors of the water authority operating at the regional headquarter shall comprise of ten members appointed by the Minister as follows:

- (a) a Chairman who shall be a resident of the municipality, township or locality in question;
- (b) the Managing Director of the Water Supply and Sanitation Authority;
- (c) one member representing the Ministry responsible for water;
- (d) a representative of the regional administration;
- (e) the Director of Municipal or City Council in the area of jurisdiction of the water authority;
- (f) at least five members appointed by the Minister upon consultation with the regional administration being-
 - (i) Councilors;
 - (ii) a representative of the local commercial sector or large scale water consumer;
 - (iii) a representative of the locally based large scale consumers of water;
 - (iv) a representative of the domestic consumers of water; and
 - (v) a representative of women's groups.

(2) The Board of Directors in the District and township level shall comprise of seven members appointed by the Minister as follows:

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

(3) Where a service area of water authority transcends into more than one District or Region, the Board of such water authority shall be appointed by the Minister as follows:

- (a) a Chairman;

- (b) a representative of:-
- (i) Regional administration of regions within the area of jurisdiction of the water authority;
 - (ii) large scale water consumers;
 - (iii) Tanzania Chamber of Commerce, Industry and Agriculture from the jurisdiction of a water authority;
 - (iv) women groups;
 - (v) District Executive Directors of districts within the area of jurisdiction of the water authority who shall be elected by the respective District Executive Directors;
 - (vi) Councilors of councils within the area of jurisdiction of the water authority;
 - (vii) Ministry responsible for water; and
- (c) The Managing Director.

(4) The members under paragraphs 3(b)(i), (ii), (iii), (iv), (v) and (vi) of paragraph 3(b) shall be appointed on the principle of rotation among the respective regions, districts and councils.

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

Qualification
of members

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

(2) The Minister shall use competitive recruitment procedures in making appointment of members mentioned under paragraph 1(1)(a); 1(1)(f)(i),(ii), (iii), (iv) and (v); 1(2)(a); 1(2)(d)(ii), (iii) and (iv); 1(3)(a); 1(3)(b)(ii),(iii) and (iv):

Provided that, where a competitive procedure is not practicable, he shall make direct appointment without competition.

Tenure

3.-(1) Members of the Board of Directors appointed under paragraph 1(1), (2) and (3) shall hold office for a period of three years but shall be eligible for re-appointment at the end of that period.

(2) Members not appointed by virtue of their office shall be eligible for reappointment for one further term only.

(3) Notwithstanding the eligibility of members for re-appointment under subparagraph (1), at each re-appointment of members, there shall be at least two members who have previously served as members.

Secretary to
Board

4. The Managing Director shall be the Secretary of the Board.

Vice -Chairman

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

Meetings of Board	<p>6.—(1) The Board shall ordinarily meet for the transaction of its business at the times and at the places determined by it, but shall meet at least once in every three months.</p> <p>(2) The Chairman, or in his absence, the Vice-Chairman, may at any time call a special meeting of the Board upon a written request by a majority of the members in office.</p> <p>(3) The Chairman, or in his absence, the Vice-Chairman, shall preside at every meeting of the Board and in the absence of both the Chairman and the Vice-Chairman the members present at a meeting shall appoint one of their number to preside at the meeting.</p> <p>(4) The Chairman or, in his absence, the Vice-Chairman, may invite any person who is not a member to participate in the deliberations at any meeting of the Board but a person invited shall not be entitled to vote.</p>
Quorum	<p>7. The quorum at any meeting of the Board shall be half of the members in office.</p>
Decisions	<p>8.—(1) Questions proposed at a meeting of the Board shall be decided by a majority of the votes of the members present and in the event of equality of votes, the person presiding shall have a second or casting vote in addition to his deliberative vote.</p> <p>(2) Notwithstanding subparagraph (1) a decision may be made by the Board without a meeting by circulation of relevant papers among the members, and the expression in writing of similar views by the majority of the Members shall constitute the decision of the Board.</p>
Minutes of meetings	<p>9.—(1) The Board shall record and keep minutes of all business conducted or transacted at its meetings and the minutes of each meeting of the Board shall be read and confirmed, or amended and confirmed, at the next meeting of the Board and signed by the person presiding at the meeting.</p> <p>(2) Any minutes purporting to be signed by the person presiding at a meeting of the Board shall, in the absence of proof of error, be deemed to be a correct record of the meeting whose minutes they purport to be.</p>
Proceedings not invalidated by irregularity	<p>10. The validity of any act of proceedings of the Board shall not be affected by any vacancy among its members or by any defect in the appointment of any of them.</p>
Orders and directions etc	<p>11. All orders, directions, notices or other documents made or issued by or on behalf of the Board shall be signed by-</p> <ol style="list-style-type: none"> (a) the Chairman or the Vice Chairman; or (b) the Managing Director or any other officer or officers of the Authority authorised in writing to do by the Managing Director.

Affixing seal of authority **12.** The seal of a Water Supply and Sanitation Authority shall not be affixed to any instrument except in the presence of the Chairman or the Vice-Chairman or the Managing Director or some other officer of a Water Supply and Sanitation Authority and at least one other member of the Board.

Board may regulate its own proceedings **13.** The Board may regulate its own proceedings.

Power to dissolve Board of water authority **14.** The Minister may dissolve the Board of water authority.

SECOND SCHEDULE

(Made under section 34(1))

CONSTITUTION OF THE COMMUNITY BASED WATER SUPPLY ORGANISATION

1.—(1) There is hereby formed a Community Based Water Supply Organisation (hereinafter referred to as the “Organisation”).

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

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

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

(5) The area of responsibility of the organisation shall be.....
(state an area of responsibility).

2. The powers and functions of the Organisation shall be to-

- (a) own movable and immovable properties including public taps and waterworks;
- (b) manage, operate and maintain public taps and or waterworks and provide an adequate and safe supply of water to its consumers;
- (c) determine rules for the use of public taps and or waterworks by consumers;
- (d) install water meters for the purpose of measuring the amount of water supplied to a water point or a consumer;
- (e) charge consumers for the water supplied from public taps and or waterworks;

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- (f) exclude any person from public taps or supplies from the waterworks who is not complying with the rules, regulations or this constitution;
- (g) consult and cooperate with the village council or any other institution responsible for land to plan and control the use of land in the immediate vicinity of public taps and or waterworks; and
- (h) do such other thing or enter into any transaction which, in the opinion of the Community Water Committee, is calculated to facilitate the proper performance of the functions of the community organisation under the Water Supply and Sanitation Act.

3.-(1) There shall be a Community Water Committee composed of:

- (a) Chairman who shall be elected by the members of the Organisation;
- (b) supervisor of the Organisation who shall be the Secretary of the Committee;
- (c) one member who is a headmaster or head teacher of one of the schools in the service area of the Organisation elected by members of the Organisation;
- (d) one member from health centre or dispensary in the service area of the Organisation elected by members of the Organisation;
- (e) one member representing Village Executive Officers in the service area of the Organisation elected by members of the Organisation;
- (f) one member representing Ward Executive Officers in the service area of the Organisation elected by members of the Organisation;
- (g) one member representing women elected by members of the Organisation;
- (h) one counselor in the service area of the Organisation elected by members of the Organisation; and
- (i) one member representing water users in the service area of the Organisation elected by members of the Organisation.

(2) The Community Water Committee shall be responsible and accountable for overseeing carrying out the functions and managing the business and affairs of the Organisation and in particular it shall mobilise and sensitise community participation in-

- (a) identification and implementation of rural water schemes;
- (b) protection of water sources and water supply infrastructure; and
- (c) payments of rates and charges for water services;

(3) Members of the Community Water Committee shall hold office for the duration of three years and be eligible for re-appointment upon good performance.

4.–(1) There shall be a Community Water Management Team composed of:

- (a) supervisor of the Organisation, who shall be a person possessing at least artisan certificate in a related field or above from a recognised institution preferably NTA Level 3;
- (b) Treasurer who shall be a person possessing at least a basic certificate in accounting preferably NTA Level 3; and
- (c) any such number of staff as the Organisation deem fit.

(2) Community Water Management Team shall be responsible for the day to day operations of the Organisation.

(3) Supervisor of the Organisation, Treasurer and such number of staff under subparagraph (1), shall be recruited on competitive basis on such terms as the Organisation determines.

5. Community Water Committee shall meet at least twice annually.

6.–(1) An Annual General Meeting of the members of the Organisation shall be held once each year and not more than fifteen months following the previous annual general meeting to follow up on water service provisions, statement of income and expenditure and elect members of the Community Water Committee.

(2) Extra-Ordinary General Meeting of the Organisation may be called by five *per centum* of members giving two weeks' notice to the Secretary in writing.

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

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

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

THIRD SCHEDULE

(Made under section 44(2))

COMPOSITION AND PROCEEDINGS OF THE BOARD OF RUWASA

Composition
of Board

- 1.–(1) The Board shall be composed of nine members being-
- (a) the Chairman;
 - (b) seven members; and

(c) the Director General.

(2) The Chairman and seven members shall be non-executive and be appointed as follows:

- (a) Chairman who shall be appointed by the President;
- (b) one member with knowledge and experience in the water sector from outside public service appointed by the Minister;
- (c) one member representing the Ministry responsible for local government;
- (d) one member representing the Rural Energy Agency nominated by the Director General of Rural Energy Agency;
- (e) one member representing the Contractors' Registration Board;
- (f) one member representing the Basin Water Offices nominated by the National Water Board;
- (g) one member from the accredited higher learning institutions with knowledge or specialisation in drilling, dam construction or materials and chemical supplies; and
- (h) one member representing the Ministry responsible for water nominated by the Permanent Secretary.

(3) The Minister in making appointments of members shall have regard to desirability that every person appointed possess such technical qualifications or experience by virtue of his involvement in engineering, economics, water resource management, industry, finance, law, public services or administration, as would enable that person to make a useful contribution to the deliberations of the Board and to assist it in the furtherance of the functions of RUWASA.

(4) The Board may invite a representative not mentioned in the Act from any sector whenever deemed necessary to attend its meeting but that member shall not have a voting right.

(5) The Minister shall, in recommending appointment of a Chairman and in making appointment of a member mentioned under paragraph 1(2)(b), use competitive recruitment procedures:

Provided that, where a competitive procedure is not practicable, he shall make direct appointment without competition.

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

Tenure of
members of
Board

2.-(1) A member of the Board, including the Chairman, shall hold office for the period of three years; and be eligible for re-appointment for a non-renewable subsequent term not exceeding three years.

(2) The provisions of subsection (1) shall not apply to *ex-officio* member of the Board.

Resignation
of member

3. A member may at any time resign by giving notice in writing to the appointing authority and from the date specified therein the notice or if no date specified from the date of receipt of the notice by the appointing authority, he shall cease to be a member.

Quorum and decision making 4.–(1) Four members of the Board shall constitute a quorum at any meeting of the Board.

(2) All acts, matters, and items authorised by the Board shall be decided by resolution at a meeting of the Board at which there is a quorum.

(3) A decision approved by the majority of members present at a meeting of the Board shall be deemed to be a decision of the Board.

(4) Every member of the Board, excluding *ex-officio* members, shall have one vote and in the event of an equality of votes the Chairman of the meeting shall have a second or casting vote in addition to his deliberative vote.

(5) Notwithstanding the provisions of this Schedule, where the Chairman directs a decision may be made by the Board without a meeting by circulation of the relevant papers among all the members and the expression in writing of their views, but any member shall be entitled to require that any such decision be deferred until the subject or matter be considered at a meeting of the Board.

Meetings of Board 5.–(1) The Board shall meet at least four times a year and at such other time as may be necessary or expedient for the transaction of its business.

(2) The Chairman shall preside at the meeting of the Board and in the absence of the Chairman the members present at the meeting shall elect one of their members to be an interim Chairman.

(3) Minutes in proper form of each meeting of the Board shall be kept and confirmed by the Board at its next meeting and signed by the Chairman of the Meeting.

(4) All meetings of the Board shall be convened by the Secretary to the Board or where the Secretary is unable to convene a meeting, the Chairman, who shall appoint a suitable time, place and date for holding of each meeting.

(5) The Secretary shall convene a special meeting of the Board on a request in writing signed by not less than five members of the Board for such a meeting and shall cause the meeting to be held within twenty one days of the receipt by him of such notice.

(6) Except in case of a special meeting, a Board meeting shall be convened with at least five days' notice in writing, specifying the business to be transacted at the meeting, and written notice of the convening of the meeting shall be given to every member of the Board.

Secretary to Board 6.–(1) The Director General shall also serve as the Secretary to the Board.

(2) The Secretary of the Board may take part in the proceedings of the Board but shall have no voting right.

Power to regulate procedures 7. The Board shall have power to regulate its own procedure and may make standing orders providing for all matters relating to the meetings of the Board and the proper conduct of its business.

- Seal of RUWASA **8.**—(1) All deeds, instruments, contracts and other documents shall be deemed to be duly executed by or on behalf of the Board where-
- (a) sealed with the seal of the Board and signed by the Director General and the Secretary of the Board;
 - (b) sealed with the seal of the Board and signed by Director General and two members of the Board; or
 - (c) sealed with the seal of the Board and signed by one member of the Board and the Secretary both of whom have been authorised by the Board for the purpose.
- Proceedings not invalidated by irregularity **9.** Act or proceeding of the Board shall not be invalid by reason of vacancy in its membership, any defect or irregularity in the appointment of any member or by reason that any person who purported *bona fide* to act as a member at the time of the act or proceedings, was in fact disqualified or not entitled to act as a member.
- Removal of member **10.** The Minister may, in consultation with the Board, remove a member from the office at any time where;
- (a) a member is declared bankrupt;
 - (b) a member is convicted of criminal offence;
 - (c) a member is in conflict of interests;
 - (d) a member is incapable of carrying out member's duties due to ill health or physical or mental impairment; and
 - (e) fails to attend at least two third of the meetings of the Agency in the period of twelve consecutive months.
- Power to dissolve Board of water authority **11.** The Minister may dissolve the Board of RUWASA.

FOURTH SCHEDULE

(Made under section 58(2) and (3))

COMPOSITION AND PROCEEDINGS OF THE BOARD OF THE NATIONAL WATER FUND

- Composition of Board of Fund **1.**—(1) The Board shall be composed of seven members being-
- (a) the Chairman;
 - (b) five members; and
 - (c) the Chief Executive Officer.
- (2) The Chairman and the five members shall be non-executive.
- (3) The Chairman shall be a person of proven quality and integrity who has held high post distinction in public or private sector appointed by the President.
- (4) The five members of the Board of the Fund shall be appointed by the Minister and be composed as follows:
- (a) representative from the Ministry responsible for water;

- (b) representative from the Ministry responsible for regional administration and local government;
- (c) representative from the Ministry responsible for finance;
- (d) one member with strong knowledge in either economics, project investment or financing from outside public service; and
- (e) representative from private sector.

(5) Appointment of members of the Board of the Fund shall take into account gender representation.

(6) The Minister shall, in recommending the appointment of Chairman and in making appointment of members mentioned under paragraph 1(4) (d) and (e), use competitive recruitment procedures:

Provided that, where a competitive procedure is not practicable, he shall make direct appointment without competition.

Co-option of members

2. The Board may invite a person not mentioned in subparagraph 1(4) from any sector or institution whenever deemed necessary to attend any of its meetings to address a specific matter and advise the Board:

Provided that, the invited person shall not have a voting right.

Tenure of members of Board of Fund

3. A member of the Board, including the Chairman, shall hold office for a term of three years and be eligible for re-appointment of a non-renewable subsequent term.

Resignation

4. A member may at any time resign by giving one month notice in writing to the appointing authority and from the date specified therein the notice or if no date specified, from the date of receipt of the notice by the appointing authority, he shall cease to be a member.

Quorum and decision making

5.-(1) Half of members of the Board in office, excluding the Chairman, shall constitute a quorum at any meeting of the Board.

(2) All acts, matters, and items authorised by the Board shall be decided by resolution at a meeting of the Board at which there is quorum.

(3) A decision approved by the majority of members present at a meeting of the Board shall be deemed to be a decision of the Board.

(4) Every member of the Board shall have one vote and in the event of an equality of votes the Chairman of the meeting shall have a casting vote in addition to his deliberative vote.

(5) Notwithstanding the provisions of this Schedule, where the Chairman directs, a decision may be made by the Board without a meeting by circulation of the relevant papers among all the members and the expression in writing of their views:

Provided that, any member shall be entitled to require that any such decision be deferred until the subject or matter is considered at a meeting of the Board.

Meetings of Board	<p>6.—(1) The Board shall meet at least four times a year or at such other time as may be necessary or expedient for the transaction of its business.</p> <p>(2) The Chairman shall preside at the meeting of the Board and in the absence of the Chairman the members present at the meeting shall elect one member from amongst themselves to be an interim Chairman.</p> <p>(3) Minutes of the Board meetings shall be kept and confirmed by the Board at its next meeting and signed by the Chairman of the Meeting.</p> <p>(4) All meetings of the Board shall be convened by the Secretary to the Board or where the Secretary is unable to convene a meeting, the Chairman, who shall appoint a suitable time, place and date for holding of each meeting.</p> <p>(5) The Chairman shall convene a special meeting of the Board on a request in writing signed by not less than half of members of the Board for such a meeting and shall cause the meeting to be held within twenty one days of the receipt by him of such notice.</p> <p>(6) Except in case of special meeting, a Board meeting shall be convened with at least five working days' notice in writing, specifying the business to be transacted at the meeting, and written notice of the convening of the meeting shall be given to every member of the Board.</p>
Seal of Fund	<p>7. All deeds, instrument, contracts and other documents shall be deemed to be duly executed by or on behalf of the Board where:</p> <ul style="list-style-type: none"> (a) sealed with the seal of the Fund and signed by the Chairman and the Secretary; (b) sealed with the seal of Fund and signed by Chief Executive Officer and Secretary; or (c) sealed with the seal of the Fund and signed by Chairman and the Chief Executive Officer.
Proceedings not invalidated by irregularity	<p>8. Act or proceeding of the Board shall not be invalid by reason of vacancy in its membership, any defect or irregularity in the appointment of any member or by reason that any person who purported <i>bona fide</i> to act as a member at the time of the act or proceedings, was in fact disqualified or not entitled to act as a member.</p>
Absence from three consecutive meetings	<p>9. Where a member absents himself from three consecutive meetings of the Board without sufficient cause, the Board shall advise the appointing authority of the fact for the appointing authority to consider termination of the appointment of such member and appointment of another member in his place.</p>
Power to regulate procedure	<p>10. The Board shall regulate its own procedure and may make standing orders providing for all matters relating to the meetings of the Board and the proper conduct of its business.</p>
Removal of member	<p>11. The Minister may, in consultation with the Board, remove a member from the office at any time where-</p>

- (a) a member is declared bankrupt;
- (b) a member is convicted of criminal offence;
- (c) a member is in conflict of interests;
- (d) a member is incapable of carrying out member's duties due to ill health or physical or mental impairment; and
- (e) fails to attend at least two third of the meetings of the Board in the period of twelve consecutive months.

Power to dissolve
Board of Fund

12. The Minister may dissolve the Board of the Fund.

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