

CHAPTER 272
THE WATERWORKS ACT
[PRINCIPAL LEGISLATION]
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CHAPTER 272 THE WATERWORKS ACT

An Act to provide for and regulate a supply of water to the public.

[4th November, 1949]

[R.L. Cap. 281]
Ord. No. 50 of 1949
G.N. No. 478 of 1962
Acts Nos.
5 of 1966
7 of 1981
8 of 1997

1. Short title

This Act may be cited as the Waterworks Act.

2. Interpretation

In this Act, unless the context otherwise requires—

"catchment area" means any area of land or of water delimited by the Minister which contributes to the supply of water to any waterworks;

"contractor" means any person employed under a contract to erect a building or perform other constructional work on any premises;

"domestic purposes" means in regard to any premises only such uses of water as are ordinarily necessary for the health and reasonable domestic comfort of any person residing upon or resorting to the premises during the period of that residence or resorting;

"internal supply" means the supply of water by service to any premises;

"meter" means an apparatus for measuring water and any meter box, meter box cover and indicator marking the position and size of such meter;

"Minister" means the Minister responsible for water;

"non-domestic purposes" includes the use of any water from the waterworks for the purpose of, or in carrying on, any trade, business, or manufacture, or for watering fields or

gardens cultivated or occupied as a means of pecuniary profit, or for watering animals, cattle, horses, donkeys, mules, sheep, goats or pigs, kept for pecuniary profit, or for private fountains, or for any ornamental purpose, or for the supply of ponds or tanks, or for laundries, vessels, ships, boats, or machinery; and includes the use of water by any person resident in or occupying any premises where a non-domestic supply is given;

"occupier" means any person in occupation of the premises or any part of the premises in connection with which the word is used;

"owner" means the person for the time being receiving the rent of the premises in connection with which the word is used whether on his own account, or as agent or trustee for any other person or who would receive the rent if the premises were let to a tenant, and includes the holder of premises direct from the United Republic;

"premises" means any land with or without buildings which is held or occupied as a distinct or separate holding or tenancy and includes any wharf or pier;

"prescribed authority" means the person appointed by the Minister under section 18 of this Act for the purposes prescribed by that section;

"public fountain" means any fountain, stand-pipe, tap or trough or any structure in connection therewith which is used or intended to be used for, or in connection with the supply of water to the public from the waterworks as prescribed and erected by the Water Authority;

"service" means all pipes, cisterns, cocks, fittings and other appliances (except meters) through which water flows or is intended to flow from the waterworks or which are or may be used for the purpose of supplying any premises from the waterworks;

"sewage disposal works" means any sewer and drain or sewage disposal works as defined under section 2(2) of the Public Health (Sewerage and Drainage) Act *(1);

"water affairs" means and includes water supply and sewerage;

"Water Authority" means any approved institution appointed to manage a water supply and sewerage board, company or any other body established for that purpose;

"water charge" means water funds collected by a water authority as payment for water sales connection and reconnection, fines and other water and sewerage services;

"water compound" means any public fountain used for the supply of water by the Water authority in accordance with section 15.

"waterworks" means all reservoirs, dams, weirs, tanks, cisterns, tunnels, edits, wells, boreholes, filters, settling tanks, purifying plant, conduits, aqueducts, mains, pipes, foundations, standpipes, hydrants, taps, pumps, engines and all other structures and appliances used or constructed for obtaining, storing, purifying, conveying, distributing, measuring or regulating

water which are used or have been constructed by or on behalf of the Government and are the property thereof or which shall hereafter be used or constructed by the Government or by the Water Authority.

3. Area of water supply

(1) The Minister may by order designate and declare any area defined in any such order to be a Water Supply and Sewerage Board Authority for the purpose of this Act.

(2) The Minister may declare that the facilities and infrastructure used in rendering the above services be transferred to the declared Water Authority Board.

(3) The Minister shall appoint a Water Authority to manage and supervise the water works and supply of water therefrom in any water.

(4) The Minister may in view of any special circumstances prevailing in a water supply area, by order in the *Gazette* provide that such of the powers, duties and functions of the Water Authority for such area as pre specified in the order shall be exercised and performed by any person or persons other than the Water Authority; and during the continuance in effect of any such order the powers duties and functions specified therein shall be exercised and performed in such water supply area by the person named in such order and not by the Water Authority.

(5) Without prejudice to the provisions contained in section 3, of this Act, subsection (2) of section 62 of the Local Government (Urban Authorities) Act *(2) which establishes the sewerage division, shall be deemed and construed as if the sewerage division has been formed under this Act.

(6) The designated and declared area to be water supply and sewerage Board shall be financially autonomous and for the purposes of discharging its functions, shall be deemed as legal corporate, capable of suing and being sued.

4. Repealed

[Repealed by Act No. 8 of 1997 s. 34.]

5. Water Authority to take over and manage waterworks and water supply

(1) A Water Authority duly established shall construct or take over any waterworks required or provided for the supply of the water supply area for which it is established and shall manage, maintain, extend and alter such waterworks and shall manage and distribute the water therein.

(2) The Water Authority duly established shall collect the water charges for services rendered in the water supply area and utilise water charges to manage, maintain, construct, extend, alter water works and for the purpose thereof.

(3) The Water Authority shall report to the Minister or to such other persons or authority the

Minister may appoint.

6. Powers and duties of Water Authority

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

7. Powers of the Water Authority for maintenance

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

8. Power of the Water Authority to lay pipes, etc., on private lands

The Water Authority may, after giving reasonable notice in writing to the owner or occupier, carry any water pipe through, across or under any lands and may, at any time, upon giving such reasonable notice as circumstances private lands permit, or in case of serious emergency without giving notice, enter upon any such lands for the purpose of repairing, maintaining, renewing, removing, altering, inspecting, attending to or testing any such water pipe thereon, without paying any compensation but making good or at his option paying for damage done or occasioned through the operations under this section.

9. Power of Water Authority to enter premises for inspection of pipes, etc., and to supervise proper use of water service

The Water Authority may for any of the purposes mentioned under this section at any time between 6 a.m. and 6 p.m., or in the case of urgency at any other time enter upon any premises into, upon or under which any pipe or fitting connected with the waterworks is or is being fixed—

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

10. Power of Water Authority to curtail or withhold supply

It shall be lawful for the Water Authority to diminish, withhold or suspend, turn off or divert the supply of water from any internal supply or public fountain either wholly or in part whenever the Water Authority shall think fit without prejudice to the recovery or retention of any water

rate, charges, meter-rent or other sums due or to become due under this Act.

11. Power to authorise supply of water outside water supply area

Notwithstanding anything in this Act the, Minister may authorise a Water Authority to supply water outside its water supply area and the Minister may prescribe the charge for water so supplied and the conditions on which a supply shall be authorised:

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

12. Application of Act to supply outside area

When a supply of water is authorised in accordance with the provisions of section 11 the provisions of this Act and all subsidiary legislation made hereunder shall apply, *mutatis mutandis*, to such supply, subject to the charge and any conditions prescribed by the Minister.

13. Power of Water Authority to supply water to premises

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

14. Supply by quantity in water supply area

The water supply to any premises in any water supply area under the provisions of section 13 shall be supplied by quantity as ascertained by a meter and the Water Authority may prescribe a rate or rates at which water may be so supplied in any water supply area for any purpose:

Provided that where no meter is available at any premises the Water Authority may prescribe a flat rate or rates at which water may be supplied to such premises.

15. Compound rate for supply by compound in water supply area

(1) The Water Authority may erect water compounds in any part of a water supply area and may supply water therefrom and the Water Authority may prescribe a rate or rates at which may be so supplied in any water supply water area.

(2) The Water Authority may from time to time make such arrangements as it shall deem fit for the control and management of water compounds and in regard to the hours at which water may be supplied therefrom.

16. Water Authority may charge rent for meters

When water is supplied by quantity as ascertained by meter, the meter shall be the property of, and kept in repair by the Water Authority, which is hereby authorised to charge a rent for the

meter in accordance with such scale of charges as may be prescribed.

17. Supply of water by agreement

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

18. Appointment of person for collection of moneys due in respect of water supply

The Minister may by notice in the *Gazette* appoint any person to collect and receive in any water supply area or specified part thereof all rates and charges for water supplied and all meter rents and charges for work done by the Water Authority in such area or part thereof and such person so appointed shall be designated the prescribed authority.

19. Rates and charges where payable

(1) The rates, charges and meter rents payable under this Act shall be paid to such officer or at such office as the prescribed authority shall notify in the *Gazette*.

(2) The respective Water Authority may adjust the charges and meter rents payable under this Act provided that the adjusted rates, charges and meter rents shall be published in the *Gazette*.

20. Liability for payment of rates and charges

(1) The occupier of any premises in respect of which rates, meter rent or charges are payable, shall be liable for payment thereof.

(2) When any premises are occupied by two or more persons, each person shall be jointly and severally liable for the payments of the rates, meter rent or charges payable under subsection (1).

21. Failure of contractor to pay for water supplied

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

22. Disconnection of water supply on non-payment of rates or charges

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

23. Payment of rate after notice of discontinuance or after removal

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

24. Action by prescribed authority for recovery of overdue amounts

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

25. Recovery of overdue amounts from occupier

If any sum for rates or any other charges in connection with the supply of water to any premises is not fully paid within the thirty days prescribed in section 22 the prescribed authority or any person authorised in writing on its behalf may demand the same from the occupier of such premises and on non-payment within seven days of such demand may, without prejudice to any other remedy, recover the same by distress and sale of the goods or chattels found on the premises:

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

26. Payment of water rates and charges in Dar es Salaam Water Supply Area

The provisions of sections 22, 24 and 25 shall have effect in the Dar es Salaam Water Supply Area as if the words "fifteen days" were substituted for the words "thirty days" wheresoever they occur in the said sections.

[s. 25A]

27. Proof of liability

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

[s. 26]

28. Injury, diversion and pollution

Any person who—

- (a) tampers with or wilfully or negligently injures the waterworks, or any public fountain or any service through or with which water from the waterworks is supplied, or any meter installed by the Water Authority under this Act;
- (b) unlawfully draws off, diverts or takes water from the waterworks or from any catchment area from which the waterworks are supplied;
- (c) pollutes or causes risk of pollution to any such water;
- (d) allows any foul liquid, gas or other noxious matter to enter into the waterworks or any pipe or fitting connected therewith,

commits an offence and is liable upon conviction to a fine not exceeding five hundred shillings and to a further fine not exceeding one million shillings or to imprisonment for a term not exceeding three years or to both fine and imprisonment and to a further fine not exceeding ten thousand shillings for every day on which the offence continues.

[s. 27]

29. Misuse or waste of water

Any person who wilfully or negligently misuses or wastes or causes or allows to be misused or wasted any water passing into, through or upon or near any premises from the waterworks commits an offence and is liable upon conviction to a fine not exceeding one hundred thousand shillings.

[s. 28]

30. Altering pipe or fitting

Any person who without the consent of the Water Authority or contrary to any rules alters or causes or permits to be altered any service through which water is supplied to any premises commits an offence and is liable upon conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a period not exceeding six months or to both fine and imprisonment and the Water Authority may cut off or withdraw the supply of water to the premises till such time as the service has been reinstalled to the satisfaction of the Water Authority.

[s. 29]

31. Fraudulent measurement

Any person who alters or causes or permits to be altered any service with intent to avoid the accurate measurement or register of water by means of any meter or to obtain a greater supply of water than he is entitled to, and to avoid payment therefor or with such intent tampers with

any meter commits an offence and is liable upon conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding one year or both fine and imprisonment and any service so altered or meter injured may be replaced or repaired by the Water Authority at the expense of any person convicted under this section, and the cost so incurred by the Water Authority may be recovered upon the order of the Court as if it were a fine imposed by the Court.

[s. 30]

32. Water used other than for purpose supplied

Any person who uses for purposes other than those for which the water is supplied, to him by the Water Authority shall commit an offence and is liable upon conviction to a fine not exceeding one hundred thousand shillings without prejudice to the right of recover of the value of the water improperly used.

[s. 31]

33. Water supplied to persons not entitled to supply

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

[s. 32]

34. Trespass

Any person found trespassing on any enclosed land appropriated or used for the purpose of waterworks commits an offence and is liable upon conviction to a fine not exceeding twenty thousand shillings.

[s. 33]

35. Taking water for ships

Any person who fills any cask, tin, or other vessel at any public fountain for the purpose of supplying or loading any ship with such water without the permission of the Water Authority commits an offence and is liable upon conviction to a fine not exceeding one hundred thousand shillings.

[s. 34]

36. Accumulation likely to enter waterworks

Any person who puts or allows to be put or to remain or to accumulate on any premises

occupied by him any foul or injurious matter or any earth or excavated material in such manner or place that it may be washed, fall or be carried into the waterworks or catchment area thereof and who does not on notice in writing from the Water Authority remove the same or cause the same to be removed commits an offence and is liable upon conviction to a fine not exceeding one hundred thousand shillings and for every day during which such matter, earth or material is allowed to remain after notice in writing from the Water Authority requiring the same to be removed, to a further fine not exceeding five thousand shillings for each day while the offence continues.

[s. 35]

37. Bathing, washing in waterworks

Any person who—

- (a) washes or bathes in any part of the waterworks or catchment area or in any vessel used by the Water Authority for supplying water from any public fountain;
- (b) washes, throws or causes or permits to enter into any part of the waterworks or catchment area or into any vessel used by the Water Authority for supplying water from any public fountain, any animal, clothing, material or thing;
- (c) wrongfully opens or closes any lock, cock, valve, sluice or manhole belonging to the waterworks,

commits an offence and is liable upon conviction to a fine not exceeding one hundred thousand shillings.

[s. 36]

38. Offence under other laws

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

[s. 37]

39. Rules

The Minister may make rules for the more effective carrying out of the provisions of this Act and in particular and without prejudice to the generality of this power, may make rules relating to all or any of the following matters and may apply all or any such rules to all water supply areas or to any water supply area in particular, or to any particular part of a water supply area, namely:

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

[s. 38]

40. Penalty for breach of rules

The Minister may prescribe for the breach of any rule made under section 39, where no punishment is specifically provided for such breach by this Act, a fine not exceeding fifty thousand shillings.

[s. 39]

41. Administration of this Act

For the purpose of proper administration of this Act, sections 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33 and 34 of the Public Health Sewerage and Drainage Act *(3) shall apply *mutatis mutandis* to this Act.

[s. 40]

42. Powers of new boards

New boards or institutions that may be formed or established shall have powers to levy waste water disposal charges in their respective areas of jurisdictions.