



LAWS OF KENYA

WATER ACT

CHAPTER 372

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CHAPTER 372

WATER ACT

ARRANGEMENT OF SECTIONS

PART I – PRELIMINARY

Section

1. Short title and commencement.
2. Interpretation.

PART II – OWNERSHIP AND CONTROL OF WATER

3. Water vested in the State.
4. Powers and duties of the Minister.
5. Right to use water.
6. Acquisition of water rights.

PART III – WATER RESOURCES MANAGEMENT

The Water Resources Management Authority

7. Establishment of the Authority.
8. Powers and functions of the Authority.
9. Staff of the Authority.
10. Regional offices.

Water Resources Management Strategies

11. National water resources management strategy.
12. Classification of water resources and resource quality objectives.
13. Determination of reserve.
14. Catchment areas.
15. Catchment management strategy.
16. Catchment area advisory committees.
17. Protected areas.
18. National monitoring of and information on water resources management.

Public Works for Water Use

19. State schemes and community projects.
20. Precedence of schemes and projects.
21. Acquisition of land for state scheme.
22. Construction of works for state schemes.
23. Community projects.
24. Charge for benefits resulting from schemes and projects.

Water Rights and Works

25. Requirement for permit.
26. Permit not required for certain activities.
27. Unauthorised construction and use of works.

Section

28. Easements for works.
29. Procedure for obtaining permit.
30. Conditions of permits.
31. Charges for water use.
32. Considerations for the issue of permits.
33. Issue of permits in exceptional cases.
34. Permit to run with land or undertaking.
35. Variation of permit owing to change in circumstances, etc.
36. Power to require permit applications or re-applications.
37. Cancellation or variation of permit to enable scheme or project.
38. Cancellation or variation of permit for failure to observe terms and conditions.
39. Variation of permit following hydrographic survey.
40. Variation of permit at request of permit holder.
41. Abandonment of permitted activities.
42. Surrender of permits.
43. Register of permits.

Ground Water

44. Ground water conservation areas.
45. Abstraction of ground water.

PART IV – WATER SUPPLY AND SEWERAGE

The Water Services Regulatory Board

46. Establishment of the Regulatory Board.
47. Powers and functions of the Regulatory Board.
48. Staff of the Regulatory Board.

Water Services Strategies

49. National water services strategy.
50. National monitoring of and information on water services.

Water Services Boards and Water Service Providers

51. Constitution of water services boards.
52. Change of membership of boards.
53. Powers and functions of boards.
54. Staff of water services boards.
55. Water service providers.

Provision of Water Services

56. Requirement for licence.
57. Procedure for obtaining licence.
58. Licences.
59. Limits of supply.
60. Licence fees.
61. Conditions of licence.
62. Variation of terms or conditions of licence.

Section

- 63. Combination or transfer of undertakings.
- 64. Variation of limits of supply.
- 65. Supply outside limits of supply.
- 66. Supply of water in bulk.
- 67. Reserve powers of the Minister.
- 68. Default by licensee.
- 69. Transfer of functions of licensee.

Powers and Duties of Licensees

- 70. Duty to provide water services.
- 71. Agreements as to catchment protection, etc.
- 72. Power of licensee to prohibit or restrict use of water.
- 73. Power to make regulations.
- 74. Duty to enforce regulations.
- 75. Execution of works for protection of water.
- 76. Control of trade effluent.
- 77. Sewerage services levy.
- 78. Acquisition of land.

PART V – FINANCIAL PROVISIONS

- 79. Application of revenue from permit charges and licence fees.
- 80. Application of revenue arising from schemes and projects.
- 81. Financial assistance to the Authority and the Regulatory Board.
- 82. Accounts and audit.
- 83. Water Services Trust Fund.

PART VI – GENERAL AND SUPPLEMENTAL

The Water Appeal Board

- 84. Establishment of the Board.
- 85. Jurisdiction of the Board.
- 86. Time for lodging appeal.
- 87. Determination of appeals and disputes.
- 88. Rules of the Board.

Entry on to Land

- 89. Entry by permit holder or licensee for survey and preliminary investigation.
- 90. Entry by Authority for monitoring of water resource.
- 91. Entry by licensee.
- 92. Entry by inspector.
- 93. Manner of entry.

Miscellaneous

- 94. Obstruction or pollution of watercourse or water resource.
- 95. Miscellaneous offences.
- 96. Remedy of defaults.
- 97. Powers of inspectors.

Section

- 98. Requirement to state name and address.
- 99. Service of notices.
- 100. Order, etc., to be in writing.
- 101. Authentication of documents.
- 102. Permit or licence to be evidence of power or function.
- 103. Protection of the Minister and others from liability.
- 104. Proceedings for offences.
- 105. Penalties for offences.
- 106. Application of Act to Trust land.
- 107. Public consultation.
- 108. Emergency powers in case of shortage of water.
- 109. No warranty implied by inspection.
- 110. Rules.

Repeals, Savings and Transitional Provisions

- 111. Repeals.
- 112. Existing water rights.
- 113. Transfer of water services.
- 114. Arrangements pending transfer.

SCHEDULES

- FIRST SCHEDULE – MEMBERSHIP AND PROCEDURE OF BOARDS AND COMMITTEES
 - SECOND SCHEDULE – CONDITIONS RELATING TO CONSTRUCTION OF WORKS
 - THIRD SCHEDULE – EASEMENTS
 - FOURTH SCHEDULE – ABSTRACTION OF GROUND WATER
 - FIFTH SCHEDULE – MEMBERSHIP AND PROCEDURE OF THE WATER APPEAL BOARD
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CHAPTER 372**WATER ACT**

[Date of assent: 17th October, 2002.]

[Date of commencement: 18th March, 2003: Sections 1 to 6, 19 to 24, 46 to 48,
51 to 78, 80 to 83, 90 to 111, 113 to 114

: 29th August, 2003: Sections 7 to 18, 25 to 45, 49 to 50, 79, 84 to 89, 112.]

An Act of Parliament to provide for the management, conservation, use and control of water resources and for the acquisition and regulation of rights to use water; to provide for the regulation and management of water supply and sewerage services; to repeal the Water Act (Cap. 372) and certain provisions of the Local Government Act; and for related purposes

[L.N. 31/ 2003, L.N. 158/2003.]

PART I – PRELIMINARY**1. Short title and commencement**

This Act may be cited as the Water Act, 2002 and shall come into operation on such date as the Minister may, by notice in the *Gazette*, appoint, and different days may be appointed for the coming into operation of different provisions.

2. Interpretation

(1) In this Act, unless the context otherwise requires—

“**authorised**” means authorised by or under this Act;

“**Authority**” means the Water Resources Management Authority established by this Act;

“**catchment area**” means an area designated under section 14;

“**catchment area advisory committee**” means a committee established under section 16;

“**charges**”, in relation to the use of water from a water resource, includes fees, levies and premiums of any kind;

“**easement**” means the right to occupy so much of the lands of another as may be necessary for or incidental to the construction or maintenance of works authorised, or the exercise of rights conferred, by a permit;

“**ground water**” means the water of underground streams, channels, artesian basins, reservoirs, lakes and other bodies of water in the ground, and includes water in interstices below the water table;

“**inspector**” means a person appointed by the Minister, the Authority or the Regulatory Board to exercise the powers of an inspector under this Act;

“**in-stream habitat**” includes the physical structure of a water resource and the associated vegetation in relation to the bed of the water course;

“landholder”, in relation to land, means the registered owner of the land or the person in whom the land is otherwise vested by law, and includes—

- (a) any person who by any established right, custom or estate whatsoever is, or is entitled to be, the holder or possessor of land;
- (b) any person lawfully holding or occupying land in accordance with the provisions of any law empowering the allotment of land upon the promise of title, subject to the fulfilment by the allottee of prescribed conditions; and
- (c) any person to whom a mining lease or mining location has been granted under the Mining Act (Cap. 306).

“licence” means a licence in force under this Act;

“limits of supply”, in relation to a water undertaking, means the limits within which the licensee is for the time being authorised to supply water;

“permit” means a permit for the time being in force under this Act;

“pollution”, in relation to a water resource, means any direct or indirect alteration of the physical, thermal, chemical or biological properties of the water resource so as to make it—

- (a) less fit for any beneficial purpose for which it is or may reasonably be expected to be used; or
- (b) harmful or potentially harmful to—
 - (i) the welfare, health or safety of human beings;
 - (ii) any aquatic or non-aquatic life or property; or
 - (iii) the environment;

“public consultation”, in relation to any application made, or action proposed to be taken, under this Act, has the meaning assigned to it in section 107;

“regional office” means an office of the Authority established under section 10;

“reserve”, in relation to a water resource, means that quantity and quality of water required—

- (a) to satisfy basic human needs for all people who are or may be supplied from the water resource; and
- (b) to protect aquatic ecosystems in order to secure ecologically sustainable development and use of the water resource;

“Regulatory Board” means the Water Services Regulatory Board established by this Act;

“resource quality”, in relation to a water resource, means the quality of all the aspects of a water resource including—

- (a) the water quality stipulated for the reserve;
- (b) the quantity, pattern, timing, water level and assurance of instream flow;
- (c) the physical, chemical and biological characteristics of the water;

- (d) the character and condition of the in-stream and riparian habitat; and
- (e) the characteristics, condition and distribution of the aquatic biota;

“resource quality objectives”, in relation to a water resource, means the level to be achieved and maintained in each aspect of resource quality for the water resource;

“riparian habitat” means the dynamic complex of plant, animal and micro-organism communities and their non-living environment adjacent to and associated with a watercourse;

“spring” means water emerging from beneath the surface of the ground otherwise than as a result of drilling or excavation operations;

“stream” means the water contained in a watercourse, and includes a river;

“supply of water in bulk” means a supply of water to a licensee for distribution by or on behalf of the licensee taking the supply;

“swamp” means any shallow depression on which water collects either intermittently or permanently and where there is a small depth of surface water or a shallow depth of ground water and a slight range of fluctuation either in the surface level of the water or of the ground water level so as to permit the growth of aquatic vegetation;

“use”, in relation to water contained in or forming part of a water resource, means—

- (a) abstraction, obstruction or diversion of the water;
- (b) discharge of materials or substances into the into the water; or
- (c) any activity, of a kind prescribed by rules under this Act, in relation to the water;

“Water Appeal Board” means the Water Appeal Board established by this Act;

“water resource” means any lake, pond, swamp, marsh, stream, watercourse, estuary, aquifer, artesian basin or other body of flowing or standing water, whether above or below ground;

“water service” means any service of or incidental to the supply of water or the provision of sewerage;

“water service provider” means a company, non-governmental organisation or other person or body providing water services under and in accordance with an agreement with the licensee within whose limits of supply the services are provided;

“water services board” means a water services board constituted under Part IV;

“**water table**” means—

- (a) in pervious granular or detrital material, the upper surface of the body of free water which fills all openings in material that is sufficiently pervious to permit percolation; and
- (b) in fractured impervious rocks and in solution openings, the surface at the contact between the water body in the openings and the overlying ground air;

“**watercourse**” means any natural channel or depression in which water flows regularly or intermittently, unless declared not to be a watercourse under this Act;

“**works**” means any structure, apparatus, contrivance, device or thing for carrying, conducting, providing or utilising water or liquid waste, but does not include hand utensils or such other contrivances as may be prescribed by rules made under this Act.

(2) For the purposes of this Act, a drought shall be deemed to exist in any area when the Minister, upon such information as seems to him sufficient, by order published in the *Gazette* declares that a drought exists in that area.

PART II – OWNERSHIP AND CONTROL OF WATER

3. Water vested in the State

Every water resource is hereby vested in the State, subject to any rights of user granted by or under this Act or any other written law.

4. Powers and duties of the Minister

(1) The Minister shall have and may exercise control over every water resource in accordance with this Act.

(2) It shall be the duty of the Minister to promote the investigation, conservation and proper use of water resources throughout Kenya and to ensure the effective exercise and performance by any authorities or persons under the control of the Minister of their powers and duties in relation to water.

(3) The Minister shall be assisted in discharge of his duties under this section by Director of Water.

5. Right to use water

The right to the use of water from any water resource is hereby vested in the Minister, except to the extent that it is alienated by or under this Act or any other written law.

6. Acquisition of water rights

After the commencement of this Act, no conveyance, lease or other instrument shall be effectual to convey, assure, demise, transfer or vest any person, any property or right or any interest or privilege in respect of any water resource, and no such property, right, interest or privilege shall be acquired otherwise than under this Act.

PART III – WATER RESOURCES MANAGEMENT

*The Water Resources Management Authority***7. Establishment of the Authority**

(1) There is hereby established an authority to be known as the Water Resources Management Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal and shall have power, in and by its corporate name, to sue and to 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 objects.

(3) The powers and functions of the Authority shall be exercised and performed under the direction of a governing board, which shall consist of—

- (a) a Chairman, who shall be appointed by the President; and
- (b) ten other members, who shall be appointed by the Minister.

(4) The First Schedule has effect with respect to the membership and procedure of the governing board of the Authority.

8. Powers and functions of the Authority

(1) The Authority shall have the following powers and functions—

- (a) to develop principles, guidelines and procedures for the allocation of water resources;
- (b) to monitor, and from time to time re-assess, the national water resources management strategy;
- (c) to receive and determine applications for permits for water use;
- (d) to monitor and enforce conditions attached to permits for water use;
- (e) to regulate and protect water resources quality from adverse impacts;
- (f) to manage and protect water catchments;
- (g) in accordance with guidelines in the national water resources management strategy, to determine charges to be imposed for the use of water from any water resource;
- (h) to gather and maintain information on water resources and from time to time publish forecasts, projections and information on water resources;
- (i) to liaise with other bodies for the better regulation and management of water resources;
- (j) to advise the Minister concerning any matter in connection with water resources.

(2) The Authority may, with the consent of the Attorney-General given under the Criminal Procedure Code, undertake the prosecution of any offences arising under this Act or in connection with the performance of its functions.

(3) The Authority shall have such other powers and functions as may be conferred or imposed on it by or under this or any other Act, or as may be reasonably incidental to the exercise or performance of any power or function so conferred or imposed.

(4) Except as to the contents of any report or recommendation made by it, the Authority shall, in the exercise and performance of its powers and functions, be subject to such directions as may be given from time to time by the Minister.

(5) A summary of any directions given under subsection (4) during a financial year shall be published in the Authority's annual report prepared under section 18.

9. Staff of the Authority

(1) There shall be a Chief Executive Officer of the Authority who shall be appointed by the Authority on such terms and conditions of service as the Authority may, with the approval of the Minister, determine.

(2) The Chief Executive Officer shall be the principal officer of the Authority and, subject to the directions of the governing board, shall be responsible for the management of the affairs of the Authority.

(3) The Authority may appoint such officers and other staff as may be necessary for the exercise and performance of its powers and functions, upon such terms and conditions as it may determine.

10. Regional offices

The Authority shall establish regional offices in or near any catchment area established under section 14.

Water Resources Management Strategy

11. National water resources management strategy

(1) Following public consultation, the Minister shall formulate, and publish in the *Gazette*, a national water resources management strategy in accordance with which the water resources of Kenya shall be managed, protected, used, developed, conserved and controlled.

(2) The Minister shall periodically review the national water resources management strategy and may from time to time publish in the *Gazette* a revised strategy.

(3) The national water resources management strategy shall prescribe the principles, objectives, procedures and institutional arrangements for the management, protection, use, development, conservation and control of water resources and, in particular, for—

- (a) determining, in accordance with this Part, the requirements of the reserve for each water resource;
- (b) classifying water resources in accordance with this Part; and
- (c) identifying areas which, in accordance with this Act, should be designated protected areas and ground water conservation areas.

(4) The Minister, the Authority and all public bodies shall, when exercising any statutory power or performing any statutory function, take into account and give effect to the national water resources management strategy.

12. Classification of water resources and resource quality objectives

(1) The Minister shall prescribe a system for classifying water resources for the purpose of determining resource quality objectives for each class of water resource.

(2) Under the prescribed classification system, water resources may be classified according to type, location or geographical or other factors.

(3) The Minister shall, by notice in the *Gazette*—

- (a) classify each water resource in accordance with the prescribed classification system;
- (b) specify the resource quality objectives for a water resource of the class to which it belongs; and
- (c) specify the requirements for achieving the objectives, and the dates from which the objectives will apply.

(4) The Minister, the Authority and all public bodies shall, when exercising any statutory power or performing any statutory duty, take into account and give effect to the resource quality objectives determined under this section in respect of a water resource.

13. Determination of reserve

(1) The Minister shall, by notice in the *Gazette*, determine the reserve for the whole or part of each water resource which has been classified under this Part.

(2) A determination of the reserve shall ensure that adequate allowance is made for each aspect of the reserve.

(3) The Minister, the Authority and all public bodies shall, when exercising any statutory power or performing any statutory function in relation to the water resource concerned, take into account and give effect to the requirements of the reserve.

14. Catchment areas

(1) In accordance with the national water resources management strategy, the Authority may by notice published in the *Gazette* designate a defined area from which rainwater flows into a watercourse to be a catchment area for the purposes of this Act.

(2) A catchment area designated under this section may lie wholly or partly within another catchment area.

15. Catchment management strategy

(1) Following public consultation, the Authority shall formulate a catchment management strategy for the management, use, development, conservation, protection and control of water resource within each catchment area.

(2) It shall be the duty of the Authority to review the catchment management strategy made from time to time.

(3) A catchment management strategy shall—

- (a) take into account the class of water resource and resource quality objectives for the water;
- (b) be consistent with the national water resources strategy;
- (c) prescribe the principles, objectives, procedures and institutional arrangements of the Authority for the management, use, development, conservation and control of water resources within each catchment area;
- (d) contain water allocation plans which set out principles for allocating water; and
- (e) provide mechanisms and facilities for enabling the public and communities to participate in managing the water resources within each catchment area.

(4) The catchment management strategy, as in force for the time being, shall be published in the *Gazette*.

(5) Without prejudice to the generality of subsection (3)(e), the catchment management strategy shall encourage and facilitate the establishment and operation of water resources users associations as for a for conflict resolution and co-operative management of water resources in catchment areas.

(6) The Minister, the Authority and any public authority shall, when exercising any statutory power or performing any statutory function, take into account and give effect to any catchment management strategy in force under this section.

16. Catchment area advisory committees

(1) The Authority shall, in consultation with the Minister, appoint a committee of not more than 15 members in respect of each catchment area.

(2) A catchment area advisory committee shall, in relation to the catchment area for which it is appointed, advise officers of the Authority at the appropriate regional office concerning—

- (a) water resources conservation, use and apportionment;
- (b) the grant, adjustment, cancellation or variation of any permit; and
- (c) any other matters pertinent to the proper management of water resources.

(3) The members of a catchment area advisory committee shall be chosen from among—

- (a) representatives of Ministries or public bodies responsible for matters relating water resources in the catchment area;

- (b) representatives of any regional development authorities and local authorities whose areas of jurisdiction or any part thereof fall within the catchment area concerned;
- (c) representatives of farmers or pastoralists within the catchment area concerned;
- (d) representatives of the business community operating within the catchment area concerned;
- (e) representatives of the non-government organisations engaged in water resources management programmes within the catchment area concerned; and
- (f) other persons who have demonstrated competence in matters relating to the management of water resources.

(4) The Authority shall facilitate the activity of the catchment area advisory committees by making available secretariat services and logistical and administrative support.

(5) The First Schedule has effect with respect to the membership and procedure of a catchment area advisory committee.

17. Protected areas

(1) Where the Authority is satisfied that special measures are necessary for the protection of a catchment area or part thereof, it may, with the approval of the Minister, by order published in the *Gazette* declare such an area to be a protected area.

(2) The Authority may impose such requirements, and regulate or prohibit such conduct or activities, in or in relation to a protected area as the Authority may think necessary to impose, regulate or prohibit for the protection of the area and its water resources.

18. National monitoring of and information on water resources management

(1) The national water resources management strategy shall provide for national monitoring and information systems on water resources.

(2) The systems shall provide for—

- (a) the collection and management of data and information regarding water resources and their management; and
- (b) procedures for gathering data and the analysis and dissemination of information on water resources.

(3) For the purposes of any systems established under this section, the Authority may by order require any person, within a reasonable time or on a regular basis, to provide it with specified information, documents, samples or materials.

(4) Rules made under this Act may specify requirements for the keeping of records and the furnishing of information to the Authority.

(5) Within 3 months after the end of each financial year, the Authority shall prepare an annual report of its work and activities.

(6) On payment of the prescribed fee, any member of the public—

- (a) shall have access to information contained in any national information system; and
- (b) shall be supplied with a copy of the Authority's annual report.

Public Works for Water Use

19. State schemes and community projects

(1) In this Part—

“community project” means a project approved by the Authority and operating under a permit for one or more purposes which are—

- (a) connected with the use of water or the drainage of land situate entirely, or for the most part, within a given area; and
- (b) classified by the Authority, with the approval of the Minister, as community purposes,

which has been declared by the Authority, by notice published in the *Gazette*, to be a community project for the purposes of this Act;

“state scheme” means—

- (a) a scheme, whether formulated in detail or not, for the use for any public purpose of the whole or part of a water resource;
- (b) a reservation by the Minister, after consultation with the Authority, of the whole or part of a water resource for use for any public purpose; or
- (c) a scheme for draining any land,

which has been declared by the Minister after consultation with the Authority, by notice published in the *Gazette*, to be a state scheme for the purposes of this Act.

(2) For the purposes of the definition of **“state scheme”** in subsection (1), **“public purpose”** includes any of the following—

- (a) the supply of water, or of electrical energy derived from the energy of moving water, to the public or any section of the public;
- (b) the drainage or reclamation of lands;
- (c) the protection of any water resource, its source or catchment;
- (d) identification and development of a retarding basin for the control and management of flood water or any other measures for its control or disposal;
- (e) the conservation or improvement of water quality;
- (f) the distribution, apportionment or measurement of water;

- (g) the storage or impoundment of water for purposes of bulk distribution, including the construction of reservoirs for impounding surface run-off and for regulating stream flows to synchronise them with water demand patterns.

20. Precedence of schemes and projects

(1) A state scheme shall take precedence over all other schemes for the use of water or the drainage of land.

(2) A community project shall take precedence over all other schemes for the use of water or the drainage of land, except a state scheme.

(3) The Minister—

- (a) may direct that a state scheme or community project shall be executed in augmentation, modification or improvement and, subject to the provisions of this Act, so as to supersede any other works for the use of water; and
- (b) may at any time order that any works contemplated or under execution or completed shall be aided from public moneys to such extent as may be authorised by Parliament.

21. Acquisition of land for state scheme

(1) The Minister may, by notice published in the *Gazette*, designate the land required for the development of any state scheme.

(2) Land required for a state scheme may be acquired in any manner provided by law for the acquisition of land for public purposes.

(3) Land or a part of any land acquired in accordance with this section which is not immediately required for the full development of a state scheme may, with the approval of the Minister and in accordance with any law for the time being in force relating to the leasing of such land, be leased by the Commissioner of Lands to the previous owner of the land or, if not required by him, to any other person.

22. Construction of works for state schemes

(1) The Minister may, after reasonable notice to any landholder concerned, construct and maintain upon any land such works as he may deem necessary or desirable for the purposes of any state scheme.

(2) Compensation on just terms shall be payable by the Government to the owner of the land on which any such works are constructed, but in assessing the amount of compensation payable the Minister shall take into consideration any benefit accruing to the land by the construction of the works and any adverse effect on the land caused by the works, as the case may be.

(3) The cost of construction and maintenance of any such works shall be paid out of moneys to be provided by Parliament.

(4) Development works and management of assets for the purposes of a state scheme for the provision of bulk water supplies for use by licensees and water service providers shall be undertaken on the Minister's behalf by the National Water Conservation Land Pipeline Corporation, (L.N. 270/1988).

(5) Other works which the Minister is empowered by this Part to undertake may be undertaken on his behalf by that Corporation or by such other public bodies as the Minister may appoint.

23. Community projects

(1) The Authority shall not approve any community project unless—

- (a) the proposed project is approved by the persons owning or occupying at least two-thirds of the particular area concerned in the project; and
- (b) provision is made by the project for an adequate alternative supply of water to be supplied to permit holders likely to be adversely affected and unable to benefit from the scheme.

(2) No permit for a community project shall be cancelled or varied except with the consent of the Minister.

24. Charge for benefits resulting from schemes and projects

When all or part of the cost of a state scheme or community project has been paid from moneys provided by Parliament, any person who in the opinion of the Minister, has benefited by the scheme or project shall, if the Minister so determines, pay to the Government a water rate or other charge for that benefit calculated as prescribed by rules made under this Act.

Water Rights and Works

25. Requirement for permit

(1) A permit shall be required for any of the following purposes—

- (a) any use of water from a water resource, except as provided by section 26;
- (b) the drainage of any swamp or other land;
- (c) the discharge of a pollutant into any water resource;
- (d) any purpose, to be carried out in or in relation to a water resource, which is prescribed by rules made under this Act to be a purpose for which a permit is required.

(2) Nothing in this section applies to the purposes of a state scheme under this Part.

26. Permit not required for certain activities

(1) Except as provided by subsection (2), a permit is not required—

- (a) for the abstraction or use of water, without the employment of works, from or in any water resource for domestic purposes by any person having lawful access thereto;
- (b) for any development of ground water, where none of the works necessary for the development are situated—
 - (i) within one hundred metres of any body of surface water (other than enclosed spring water, as defined in subsection (3)); or

- (ii) within a ground water conservation area; or
- (c) for the storage of water in, or the abstraction of water from, a dam constructed in any channel or depression which the Authority has declared, by notice published in the *Gazette*, not to constitute a watercourse for the purposes of this Act.

(2) Subsection (1) does not apply in relation to any activity mentioned in that subsection which is carried on in prescribed circumstances, where rules made under this Act provide that a permit shall be required for the carrying on of that activity in those circumstances.

(3) For the purposes of subsection (1)(b)(i), “**enclosed spring water**” means water in a spring which—

- (a) is situated wholly within the boundaries of the land owned by any one landholder; and
- (b) does not naturally discharge water into a watercourse abutting on, or extending beyond, the boundaries of that land.

(4) Rules made under this Act may make provision for or with respect to the use of water from a water resource in any manner for which a permit is not required.

(5) Without prejudice to the generality of subsection (4), such rules may—

- (a) prohibit any such use of water in prescribed circumstances; or
- (b) require the consent or permission of the Authority for any such water use of a prescribed kind or description.

27. Unauthorised construction and use of works

(1) A person who—

- (a) not being the holder of a permit, constructs or employs any works for a purpose for which a permit is required; or
- (b) being the holder of a permit, constructs or employs any such works in contravention of the conditions of the permit,

shall be guilty of an offence.

(2) The holder of a permit authorising the construction of works who, without the permission of the Authority, takes water from any water resource by means of any work authorised by the licence before the whole of the works authorised by the permit have been certified, in accordance with the conditions of the permit to be completed, shall be guilty of an offence.

28. Easements for works

(1) The holder of a permit which authorises the construction of works that would (or a portion of which would), when constructed, be situated upon lands not held by the permit holder shall acquire an easement on, over or through the land on which the works would be situated and, unless the works have previously been lawfully constructed, shall not construct or use the works unless and until he has acquired such an easement.

(2) The provisions of the Third Schedule shall apply in respect of the acquisition of, and subsequent rights pertaining to or against, any such easement.

29. Procedure for obtaining permit

(1) An application for a permit shall be made to the Authority.

(2) If the Authority prescribes a form for use in making such an application, the application shall be made by completing and lodging the prescribed form together with—

- (a) such information in support of the application as the form may require; and
- (b) the prescribed fee (if any).

(3) The Authority shall determine an application for a permit by granting the permit or rejecting the application.

(4) Except as provided by section 33, an application for a permit shall be the subject of public consultation and, where applicable, of environmental impact assessment in accordance with the requirements of the Environmental Management and Co-ordination Act, No. 8 of 1999.

(5) Any person opposed to the grant of a permit may object in writing to the Authority.

(6) The applicant and any person who may have objected to the grant of the application shall be notified of the decision of the Authority and, in the event of the rejection of an application or objection, as the case may be, of the reasons therefor.

(7) It is the duty of the Authority to determine an application for a permit as soon as practicable after its lodgment.

(8) Where an application duly made in accordance with this section is not determined by the Authority within six months after lodgment, any fee paid by the applicant under subsection (2)(b) shall be refunded to the applicant.

30. Conditions of permits

(1) A permit shall be subject to—

- (a) such conditions as may be prescribed by or under this Act in relation to the permit; and
- (b) such other conditions, not inconsistent with the conditions so prescribed, as the Authority may impose by endorsement on, or instrument in writing annexed to, the permit.

(2) Without prejudice to the generality of subsection (1), the provisions of the Second Schedule shall be conditions of every permit which authorises the construction of works.

(3) Rules made under this Act may make provision imposing conditions on, or with respect to the conditions which are or shall be imposed on, permits generally or any class or description of permits.

(4) Without prejudice to the generality of subsection (2), such rules may—

- (a) require the imposition of prescribed conditions in prescribed circumstances;
- (b) require the payment by the permit holder of prescribed fees in respect of the exercise of rights under the permit;
- (c) provide that a contravention of any or any specified conditions prescribed by or under this Act as conditions of permits shall constitute an offence punishable by a prescribed penalty.

(5) The imposition of a penalty by a rule made in accordance with subsection (4)(c) shall not prejudice any remedy for the recovery of damages for any loss, damage or injury sustained by any person by reason of the contravention in respect of which the penalty is imposed.

31. Charges for water use

(1) The conditions of a permit may require that, on issue of the permit and at prescribed intervals thereafter, the permit holder shall pay charges to Authority for use of water in accordance with the permit.

(2) The charges shall be determined by reference to a schedule of charges published in the *Gazette* from time to time by the Authority, with the approval of the Minister and following public consultation.

32. Considerations for the issue of permits

(1) In issuing a permit, and in fixing any conditions to be imposed on a permit, the Authority shall take into account such factors as it considers relevant, including—

- (a) existing lawful uses of the water;
- (b) efficient and beneficial use of water in the public interest;
- (c) any catchment management strategy applicable to the relevant water resource;
- (d) the likely effect of the proposed water use on the water resource and on other water users;
- (e) the class and the resource quality objectives of the water resource;
- (f) the investments already made and to be made by the water user in respect of the water use in question;
- (g) the strategic importance of the proposed water use;
- (h) the quality of water in the water resource which may be required for the reserve; and
- (i) the probable duration of the activity or undertaking for which a water use is to be authorised.

(2) The use of water for domestic purposes shall take precedence over the use of water for any other purpose, and the Authority may, in granting any permit, reserve such part of the quantity of water in a water resource as in its opinion is required for domestic purposes.

(3) The nature and degree of water use authorised by a permit shall be reasonable and beneficial in relation to others who use same sources of supply or bodies of water.

(4) A permit shall, subject to this Act, remain in force for the period specified in it, and may, to the extent that the permit so provides, be renewed from time to time.

33. Issue of permits in exceptional cases

(1) The Authority may, if in its opinion exceptional circumstances warrant such action, grant a permit authorising, unconditionally or subject to conditions, the use of water from a water resource and construction of the works required therefor, without subjecting the application to public consultation.

(2) In considering whether or not to grant a permit in accordance with this section, the Authority shall have regard to the extent to which the grant of such a permit would be likely to interfere with the domestic requirements of other users.

(3) A permit granted in accordance with this section shall not be granted or renewed so as to be in force for a period exceeding, or for periods which in the aggregate exceed, one year.

34. Permit to run with land or undertaking

(1) A permit shall specify, as far as practicable, the particular portion of any land, or the particular undertaking, to which the permit is to be appurtenant, and on its grant the permit shall, subject to this section, during the period for which it remains in force—

- (a) be appurtenant to that portion of land or that undertaking; and
- (b) pass with any demise, devise, alienation, transfer or other disposition thereof, whether by operation of law or otherwise.

(2) Where, in the opinion of the Authority—

- (a) owing to a change in circumstances not under the control of the permit holder since a permit was granted, the water concerned cannot, in such circumstances, be reasonably beneficially used by the permit holder on the particular portion of land to which the permit is appurtenant; and
- (b) neither the public interest nor the rights of others would be adversely affected by a transfer in accordance with this subsection,

the Authority may, on application by the permit holder and by endorsement of the permit or other instrument in writing, transfer the permit to another portion of land, owned by the permit holder, whereupon, it shall become appurtenant to that portion.

(3) If any land to which a permit is appurtenant has been, or is about to be, subdivided, the Authority may grant a new permit—

- (a) subject to the condition that such easements, if any, as may be required be granted, within a period of two years after subdivision of the land or within such longer period as the Authority may determine; and
- (b) subject to such other conditions, and with such other modifications, as seem to the Authority to be necessary or desirable in the circumstances.

35. Variation of permit owing to change in circumstances, etc.

(1) Whenever it is shown to the satisfaction of the Authority that, owing to drought, natural changes, increased demand or other cause, the use of water under a permit, or the method or point of diversion or other manner in which the water is so used causes—

- (a) inequity;
- (b) a deterioration in the quality of water;
- (c) a shortage of water for domestic purposes; or
- (d) a shortage of water for any other purpose which in the opinion of the Authority should have priority,

it may vary the permit so as to alter the discharge or quality of water or any other aspect of water use authorised by the permit, or to alter the method or point of diversion or other specifications, terms or conditions of the permit.

(2) No permit shall be cancelled or varied under this section unless notice of the proposed cancellation or variation has been served on the permit holder and the permit holder has been afforded a reasonable opportunity to show cause to the Authority as to why the permit should not be cancelled or varied.

(3) Subsection (2) does not apply where the variation is expressed to be made owing to drought or owing to an emergency of a kind prescribed by rules made under this Act.

36. Power to require permit applications or re-applications

(1) Where, in the opinion of the Authority, it is desirable that water use in respect of one or more water resources, including ground water, within a specific geographic area be rationalised or reviewed so as—

- (a) to achieve a sustainable allocation of water from a water resource which is under stress;
- (b) to achieve equity in allocations;
- (c) to promote beneficial use of water in the public interest;
- (d) to facilitate efficient management of water resources; or
- (e) to protect water resource quality,

the Authority may issue a notice in the *Gazette* requiring all water users, including permit holders, to apply or re-apply for permits for one or more types of water use.

(2) Following receipt of applications or re-applications, the Authority shall prepare a proposed allocation schedule specifying how water from the water resource in question will be allocated, taking into account the requirements of the reserve.

(3) The proposed allocation schedule shall be subjected to public consultation, following which the Authority shall prepare a preliminary allocation schedule and shall, by notice published in the *Gazette*, advertise the times and places at which a copy of the schedule may be inspected.

(4) Any person who is dissatisfied with the preliminary allocation schedule may appeal to the Water Appeal Board within 30 days of a publication under subsection (3).

(5) A preliminary allocation schedule shall become a final allocation schedule—

- (a) if no appeal is lodged within the time limited by subsection (4);
- (b) if it has been amended following every successful appeal; or
- (c) if every appeal has been dismissed.

(6) The Authority shall publish a notice in the *Gazette* stating that the preliminary allocation schedule has become final and advertise the times and places at which a copy of the schedule may be inspected.

(7) The Authority shall, as soon as reasonably practicable after an allocation schedule becomes final, issue permits according to the allocations provided for in it, and cancel any inconsistent permits.

37. Cancellation or variation of permit to enable scheme or project

(1) A permit may be cancelled or varied by the Authority to the extent necessary to enable a state scheme or community project to be undertaken in accordance with this Act.

(2) No permit shall be cancelled or varied under this section unless notice of the proposed cancellation or variation has been served on the holder and the permit holder has been afforded a reasonable opportunity to show cause to the Authority why the permit should not be cancelled or varied.

(3) A permit holder whose permit is cancelled or varied under this section shall be paid compensation in such amount as may be agreed between the permit holder and the Authority or, in default of agreement, as may be determined by the Water Appeal Board.

38. Cancellation or variation of permit for failure to observe terms and conditions

- (1) A permit may be cancelled or varied by the Authority if the permit holder—
- (a) contravenes any condition of the permit; or
 - (b) fails to make beneficial use of the water or any part thereof.

(2) No permit shall be cancelled or varied under this section unless notice of the proposed cancellation or variation has been served on the permit holder and the permit holder has been afforded a reasonable opportunity to show cause to the Authority as to why the permit should not be cancelled or varied.

39. Variation of permit following hydrographic survey

Every permit shall be subject to subsequent variation by the Authority after hydrographic survey of the relevant body of water has been made and after reasonable notice has been given to all parties affected.

40. Variation of permit at request of permit holder

(1) A permit may, at the request of the permit holder, be varied by the Authority so as—

- (a) to vary the point of diversion or abstraction of the water used under the permit;
- (b) to vary the use of water authorised by the permit; or
- (c) to permit the apportionment of the water authorised by the permit to be taken or used to be apportioned between two or more parts of the land to which the permit pertains;
- (d) to permit the mixture of waters authorised to be taken or used with those authorised to be taken or used by another permit, whether held by the same or another permit holder;
- (e) to remedy any defect whereby the permit is incomplete or indefinite in its terms and conditions; or
- (f) to vary any other term or condition of the permit,

if the Authority is satisfied that the variation is not contrary to the public interest or the rights of others.

(2) A variation relating to—

- (a) the use of water authorised by the permit; or
- (b) a term or condition of a prescribed kind,

shall not be made without public consultation.

41. Abandonment of permitted activities

(1) A permit holder who ceases to utilise water in accordance with the terms of his permit shall, by notice to the Authority, abandon the whole of the permit or any part capable of separation.

(2) Upon such abandonment, the Authority may direct the permit holder to remove, within such time as it may specify, all or any works erected in connection with the permit.

(3) A permit holder who neglects or fails to remove the works concerned shall be guilty of an offence, and the Authority may remove all or any portion of the works, and may recover the cost of their removal from the permit holder as a debt in any court of competent jurisdiction.

(4) Nothing in this section shall be construed as requiring or authorising a permit holder wholly or in part to abandon a permit contrary to the conditions of any mortgage or charge upon the land to which the permit is appurtenant.

42. Surrender of permits

(1) Where—

- (a) a permit is to be cancelled or varied by the authority in pursuance of this Act; or
- (b) a permit has been granted erroneously or irregularly; or
- (c) a permit has been granted in contravention of the provisions of any rules made under this Act with respect to the terms and conditions of such a permit,

the Authority may, by notice served on the holder of the permit, require the permit holder, if he has not already done so, to surrender the permit to the Authority.

(2) A permit holder who fails to comply with such a notice shall be guilty of an offence.

43. Register of permits

(1) The Authority shall establish and maintain a register of permits in force together with details of the permits and their terms and conditions and the results of monitoring and enforcement action taken by the Authority regarding each permit.

(2) Information contained in the register shall be accessible by the public on payment of the prescribed fee.

Ground Water

44. Ground water conservation areas

Where the Authority is satisfied that, in any area, special measures for the conservation of groundwater are necessary in the public interest—

- (a) for the protection of public water supplies; or
- (b) for the protection of water supplies used for industry, agriculture or other private purposes,

it may, following public consultation, by order published in the *Gazette* declare the area to be a ground water conservation area.

(2) The Authority may impose such requirements, and regulate or prohibit such conduct or activities, in or in relation to a ground water conservation area as the Authority may think necessary to impose, regulate or prohibit for the protection of the area and its ground water.

45. Abstraction of ground water

The Fourth Schedule has effect with respect to the abstraction of ground water and works therefor.

[Date of commencement of section 45: 29 August, 2003.]

PART IV – WATER SUPPLY AND SEWERAGE

*The Water Services Regulatory Board***46. Establishment of the Regulatory Board**

(1) There is hereby established a board to be known as the Water Services Regulatory Board.

(2) The Regulatory Board shall be a body corporate with 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 objects.

(3) The Regulatory Board shall consist of—

- (a) a Chairman, who shall be appointed by the President; and
- (b) ten other members, who shall be appointed by the Minister.

(4) The First Schedule has effect with respect to the membership and procedure of the Regulatory Board.

47. Powers and functions of the Regulatory Board

The Regulatory Board shall have the following powers and functions—

- (a) to issue licences for the provision of water services;
- (b) to determine standards for the provision of water services to consumers;
- (c) to establish procedures for handling complaints made by consumers against licensees;
- (d) to monitor compliance with established standards for the design, construction, operation and maintenance of facilities for water services;
- (e) to monitor and regulate licensees and to enforce licence conditions;
- (f) to advise licensees on procedures for dealing with complaints from consumers and to monitor the operation of these procedures;
- (g) to develop guidelines for the fixing of tariffs for the provision of water services;
- (h) to develop guidelines for and provide advice on the cost-effective and efficient management and operation of water services;
- (i) to develop model performance agreements for use between licensees and water service providers;
- (j) to monitor the operation of agreements between water services boards and water service providers and to take appropriate action to improve their effectiveness;
- (k) to develop guidelines on regulations for the provision of water services to be adopted by licensees;
- (l) to disseminate information about water services;

- (m) to promote water conservation and demand management measures;
- (n) to monitor, and from time to time re-assess, the national water services strategy;
- (o) in accordance with the national water services strategy, to determine fees, levies, premiums and other charges to be imposed for water services;
- (p) to gather and maintain information on water services and from time to time publish forecasts, projections and information on water services;
- (q) to liaise with other bodies for the better regulation and management of water services;
- (r) to advise the Minister concerning any matter in connection with water services.

(2) The Regulatory Board may, with the consent of the Attorney-General given under the Criminal Procedure Code, undertake the prosecution of any offences arising under this Act or in connection with the performance of its functions.

(3) The Regulatory Board shall have such other powers and functions as may be conferred on the Regulatory Board by or under this or any other Act, or as may be reasonably incidental to the exercise or performance of any power or function so conferred.

(4) Except as to the contents of any report or recommendation made by it, the Regulatory Board in the exercise and performance of its powers and functions, be subject to such directions as may be from time to time by the Minister.

(5) A summary of any directions given under subsection (3) during a financial year shall be published in the Regulatory Board's annual report prepared under section 47.

48. Staff of the Regulatory Board

(1) There shall be a Chief Executive Officer of the Regulatory Board who shall be appointed by the Regulatory Board, and whose terms and conditions of service shall be determined by the Regulatory Board with the approval of the Minister.

(2) The Chief Executive Officer shall be the principal officer of the Regulatory Board and, subject to the directions of the Board, shall be responsible for management of the Regulatory Board.

(3) The Regulatory Board may appoint, upon such terms and conditions as it may determine, such officers and other staff as may be necessary for the exercise and performance of its powers and functions.

Water Services Strategies

49. National water services strategy

(1) Following public consultation, the National Water Minister shall formulate, and publish in the *Gazette*, a national water services strategy.

(2) It shall be the duty of the Minister to review the national water services strategy from time to time.

(3) The national water services strategy shall have the following objects—

- (a) to institute arrangements to ensure that at all times there is in every area of Kenya a person capable of providing water supply; and
- (b) to design a programme to bring about the progressive extension of sewerage to every centre of population in Kenya.

(4) The national water services strategy shall contain details of—

- (a) existing water services;
- (b) the number and location of persons who are not being provided with a basic water supply and basic sewerage;
- (c) plans for the extension of water services to underserved areas;
- (d) the time frame for the plan; and
- (e) an investment programme.

(5) The national water services strategy, as in force for the time being, shall be published in the *Gazette*.

50. National monitoring of and information on water services

(1) The national water services strategy shall provide for national monitoring and information on water systems on water services.

(2) The systems shall provide for—

- (a) the collection and management of data and information regarding water services; and
- (b) procedures for gathering data and the analysis and dissemination of information on water services.

(3) For the purposes of any systems established under this section, the Regulatory Board may by order require any person, within a reasonable time or on a regular basis, to provide it with information, documents, samples or materials.

(4) Rules made under this Act may specify requirements for the keeping of records and the furnishing of information to the Regulatory Board.

(5) Within 3 months after the end of each financial year, the Regulatory Board shall prepare an annual report of its work and activities.

(6) On payment of the prescribed fee, any member of the public—

- (a) shall have access to information contained in any national information system; and
- (b) shall be supplied with a copy of the Regulatory Board's annual report.

*Water Services Boards and Water Service Providers***51. Constitution of water services boards**

The Minister may, by notice published in the *Gazette*—

- (a) name a water services board proposed to be constituted under this section; and
- (b) specify the members appointed to it and their respective qualifications.

(2) The members shall be appointed by the Minister and, on publication of a notice under subsection (1), the water services board shall by force of this section be constituted a corporation with perpetual succession and a common seal, with the corporate name specified in the notification.

(3) The board 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 objects.

(4) The First Schedule has effect with respect to the membership and procedure of a water services board.

52. Change of membership of boards

(1) Where, in accordance with this Act, the limits of supply or functions of a water services board are varied, the Minister may, by notification published in the *Gazette*—

- (a) vary the number of members of the water services board; or
- (b) vary the qualifications for members of the water services board.

(2) A change effected under this section shall not affect the identity of the water services board.

53. Powers and functions of boards

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

(2) Water services authorised by a licence shall be provided by an agent of the Board in accordance with section 55, except in circumstances where the Regulatory Board is satisfied that the procurement of such an agent is not possible or that the provision of such services by an agent is not practicable.

(3) Without prejudice to the generality of 51(2)(b), a water services board may, for the purpose of the provision of water services—

- (a) purchase, lease or otherwise acquire, on such terms as the Minister may approve, premises, plant, equipment and facilities; and
- (b) purchase, lease or otherwise acquire land, on such terms as the Minister may approve, or arrange for its compulsory acquisition under section 78.

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

54. Staff of water services boards

(1) There shall be a Chief Executive Officer of each water services board who shall be appointed by the board, and whose terms and conditions of service shall be determined by the board with the approval of the Minister.

(2) The Chief Executive Officer shall be the principal officer of a water services board and, subject to any directions of the board, shall be responsible for management of the affairs of the board.

(3) A water services board may appoint, upon such terms and conditions as it may determine, officers and other staff as may be necessary for the exercise and performance of its powers and functions.

55. Water service providers

(1) For the purposes of section 53 a water services board 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 water service providers.

(2) Such an arrangement shall be reduced to an agreement in writing between the water services board and the water service provider, the terms of which (and of any amendment of which) shall be of no force or effect unless approved by the Regulatory Board.

(3) The agreement shall specify the powers and functions under the licence which shall be exercised and performed by the water service provider during the currency of the agreement.

(4) The agreement may also make provision for or with respect to—

- (a) the concurrent performance, by the water services Board and the water services provider, of the same functions in different parts of the area defined by the board's limits of supply;
- (b) the indemnity by the water service provider of any liability of the water services board arising from the performance or non-performance of functions conferred by the licence; and
- (c) the maintenance, rehabilitation and development, by the water service provider of water services infrastructure and facilities of the water services board; and
- (d) such other matters as the Regulatory Board may approve.

(5) The water services board may enter into agreements with more than one water service provider in respect of its area of supply.

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

*Provision of Water Services***56. Requirement for licence**

(1) No person shall, within the limits of supply of a licensee—

- (a) provide water services to more than twenty households; or
- (b) supply—
 - (i) more than twenty-five thousand litres of water a day for domestic purposes; or
 - (ii) more than one hundred thousand litres of water a day for any purpose,

except under the authority of a licence.

(2) A person who provides water services in contravention of this section shall be guilty of an offence.

(3) Nothing in this section prohibits—

- (a) the provision of water services by a person to his employees; or
- (b) the provision of water services on the premises of any hospital, factory, school, hotel, brewery, research station or institution to the occupants thereof, in cases where the source of supply of the water is lawfully under its control, or where the water is supplied to it in bulk by a licensee.

57. Procedure for obtaining licence

(1) An application for a licence may be made only by a water services board, and shall be made to the Regulatory Board.

(2) The Regulatory Board shall prescribe a form for use in making such an application, which shall require at least the following particulars to be furnished by the applicant—

- (a) the technical and financial capability of the applicant, and any water service provider by whom its functions are to be performed, to provide the services and perform functions authorised by the licence;
- (b) the applicant's plans for the provision of efficient, affordable and sustainable water services;
- (c) performance targets;
- (d) details of planned financial and infrastructural improvements;
- (e) a proposed tariff structure.

(3) The application shall be made by completing and lodging the prescribed form together with the prescribed fee.

(4) The Regulatory Board shall determine an application for a licence by granting the licence or rejecting the application.

(5) The application shall not be granted unless the Regulatory Board is satisfied that—

- (a) the applicant, or a water service provider by whom the functions authorised by the licence are to be performed, has the requisite technical and financial competence to provide the services to which the licence relates;
- (b) the applicant has presented a sound plan for the provision of an efficient, affordable and sustainable service;
- (c) the applicant has proposed satisfactory performance targets and planned improvements and an acceptable tariff structure; and
- (d) the applicant, or any water service provider by whom the functions authorised by the licence are to be performed will provide the water services authorised by the licence on a commercial basis and in accordance with sound business principles;
- (e) where water services authorised by the licence are to be provided by a water service provider which conducts some other business or performs other functions not authorised by the licence, the supply of those services will be undertaken, managed and accounted for as a separate business enterprise; and
- (f) the applicant and any associated water service provider have met any other requirements which the Regulatory Board considers are called for by the services to be provided under the licence.

(6) An application for a licence shall be the subject of public consultation and, where applicable, environmental impact assessment in accordance with the requirements of the Environmental Management and Co-ordination Act, 1999, (Act No. 8 of 1999).

(7) Any person opposed to the grant of a licence may object in writing to the Authority.

(8) The Regulatory Board shall notify the applicant and any objector of its decision and, in the event of the rejection of an application or objection, as the case may be, of the reasons therefor, and an applicant or objector may, if aggrieved by the decision within thirty days after the date of the notification, appeal to the Water Appeal Board against the decision.

(9) It shall be the duty of the Regulatory Board to determine an application for a licence as soon practicable after lodgment of the application.

(10) Where an application duly made in accordance with this section is not determined by the Regulatory Board within six months after lodgment, any fee chargeable by the Regulatory Board under subsection (3) shall be refunded to the applicant.

58. Licences

(1) A licence shall authorise and, to the extent provided therein, require, the provision by the licensee of water services specified in the licence.

(2) There is no property in a licence, and except provided by this Act, a licence shall not be capable of being sold, leased, mortgaged, transferred, attached otherwise assigned, demised or encumbered.

(3) As a condition precedent to the issue of a licence, the Regulatory Board may require the applicant to deposit with it a guarantee or other acceptable security for the purpose of securing payment by the applicant of any expenses recoverable from him, as a licensee, for or towards the costs incurred in discharging the functions of the licensee in cases of default.

59. Limits of supply

(1) The limits of supply of a water services board shall be as prescribed by the licence.

(2) The limits so prescribed may, but need not, coincide with the boundaries of the area or areas of jurisdiction of one or more local authorities.

60. Licence fees

(1) A licensee shall pay to the Government, on issue of the licence and at prescribed intervals thereafter, such fees as the Regulatory Board may determine.

(2) The fee shall be determined by reference to a schedule of fees published in the *Gazette* from time to time by the Regulatory Board, with the approval of the Minister and following public consultation.

61. Conditions of licence

(1) A licence shall be subject to—

- (a) such conditions as may be prescribed by or under this Act in relation to the licence; and
- (b) such other conditions, not inconsistent with the conditions prescribed, as the Regulatory Board may impose by endorsement on, or instrument in writing annexed to, the licence.

(2) Rules made under this Act may make provision imposing conditions on, or with respect to the conditions which are or shall be imposed on, licences generally or any class or description of licences.

(3) Without prejudice to the generality of subsection (2), such rules may—

- (a) require the imposition of prescribed conditions in prescribed circumstances;
- (b) require the licensee to maintain, in the prescribed manner, a contingency fund for the purpose of renewal, repair, enlargement or improvement of any plant, equipment, facilities or works used for the purposes of the licence or for meeting any other prescribed contingency;
- (c) provide that a contravention of any, or of any specified, conditions prescribed by or under this Act as conditions of licences shall constitute an offence punishable by a penalty not exceeding one hundred thousand shillings.

(4) The imposition of a penalty by a regulation made in accordance with subsection (3)(c) shall not prejudice any remedy for the recovery of damages for any loss, damage or injury sustained by any person by reason of the contravention in respect of which the penalty is imposed.

62. Variation of terms or conditions of licence

(1) The Regulatory Board may, on the application of a licensee, vary the terms and conditions of a licence.

(2) Except as otherwise provided by rules made under this Act, no such variation shall be made without prior public consultation.

63. Combination or transfer of undertakings

(1) Without prejudice to the generality of section 62, the Regulatory Board may, on the application of the licensees concerned—

- (a) permit the joint provision by two or more licensees of water supply services on such terms as it may approve; or
- (b) permit the transfer of the undertaking, or part thereof, of one licensee to another licensee.

(2) Where it appears to the Regulatory Board to be expedient for the purpose of securing a more efficient supply of water, it may order such a joint provision of water services or such a transfer of undertaking and vary the relevant licences accordingly.

(3) An order made under this section may make such incidental, consequential and supplementary provision as the Regulatory Board deems necessary or expedient for the purpose of carrying out the order.

(4) A licensee aggrieved by the provisions of the order may appeal to the Water Appeal Board.

64. Variations of limits of supply

(1) Without prejudice to the generality of section 61, the Regulatory Board may vary the limits of supply prescribed by one or more licences—

- (a) on the application of a licensee whose limits of supply are to be varied and with the consent of any other licensees affected; or
- (b) without the consent, or against the objections, of any such other licensee, if the Regulatory Board is satisfied that the other licensee is unable to meet the demands for water in his area.

(2) Where it appears to the Regulatory Board that it is expedient to vary the limits of supply of a licensee, and the Regulatory Board is satisfied that such a variation cannot otherwise be secured, it may by order effect the variation and may vary the relevant licence accordingly.

(3) An order made under this section may make such incidental, consequential and supplementary provision as the Regulatory Board deems necessary or expedient for the purpose of carrying out the order.

(4) A licensee aggrieved by the provisions of an order made under this section may appeal to the Water Appeal Board.

65. Supply outside limits of supply

(1) With the consent of the Regulatory Board, and subject to any rules made under this Act and to such conditions as the Regulatory Board may impose, a licensee may provide water services outside its limits of supply.

(2) Where under this section a licensee (in this section called “the supplying licensee”) is providing water services to premises outside his limits of supply, any other licensee within whose limits of supply those premises are situated may, in the absence of any agreement to the contrary, at any time give not less than three months’ notice to the supplying licensee that he is able and intends to provide water services to the premises:

Provided that a notice given under this section shall not be valid unless it relates to all the premises to which water services are being provided by the supplying licensee in accordance with this section.

(3) If, at the end of a period of three months notified under subsection (2), the licensee giving the notice commences to supply water to the premises covered by the notice, the supplying licensee shall, except for the purpose of recovering water rates or other charges or expenses lawfully recoverable by him, and of removing any pipes, plant or apparatus belonging to him, cease to have any rights or duties in respect of providing water services to the premises concerned:

Provided that the supplying licensee shall not remove any pipes, plant or apparatus which he is required by the licensee giving the notice to leave in position, and any such pipes, plant or apparatus shall vest in the licensee giving the notice.

66. Supply of water in bulk

(1) Any licensee or water service provider may enter into an agreement with any other person, whether a licensee or not, for the giving by that person, and the taking by the licensee or service provider, of a supply of water in bulk for any period and on any terms and conditions and, where the supply is to be given by a person who is himself a licensee, either within or outside the limits of supply of that licensee:

Provided that no such agreement shall be of any force or effect unless its terms have been approved by the Regulatory Board, and where such a supply is to be given by a licensee, it shall withhold approval if it appears that the giving of that supply would be likely to interfere with the supply of water for any purpose within the limits of supply of that licensee.

(2) Where it appears to the Regulatory Board that—

(a) it is expedient that—

- (i) any licensee or water service provider should give a supply of water in bulk to another licensee or water service provider; and
- (ii) the other licensee or water service provider should take such a supply; and

(b) the giving and taking of such a supply cannot be secured by agreement,

the Regulatory Board may, by order served on them, require the licensees or water service providers concerned to give and take such supply for such period and on such terms as it may specify.

67. Reserve powers of the Minister

(1) The Minister shall retain a residual power to provide water services to consumers with the assistance of the National Water Conservation and Pipeline Corporation referred to in section 22(4).

(2) The Minister's power under this section shall only be exercised in cases where and for the periods during which—

- (a) no applicant has qualified to be licensed to provide water services in a particular area and the Regulatory Board has advised the Minister to provide water services in that area;
- (b) the licensee for an area has been declared to be in default under this Act by the Regulatory Board and the Regulatory Board has made an order transferring the functions to the Minister;
- (c) there is an emergency leading to serious and widespread disruption of services and the Regulatory Board has determined that the licensee is unable to deal with situation; or
- (d) for some other reason which to the Regulatory Board appears sufficient, the Regulatory Board has advised the Minister to provide water services in a specified area for a specified period.

(3) The Minister shall, to the extent necessary to enable the exercise of his powers under this section, have power to—

- (a) purchase, lease or otherwise acquire premises, plant, equipment and facilities; and
- (b) purchase, lease or otherwise acquire land.

(4) The exercise by the Minister of his powers under this section shall be deemed, for the purposes of any law authorising the compulsory acquisition land, to be a public purpose.

68. Default by licensee

(1) If, following a complaint made to or, information received by the Regulatory Board, it appears to that Board that any licensee—

- (a) has failed to discharge any duty imposed upon him by a licence or otherwise under this Act; or
- (b) has failed to give an adequate supply of water, as respects either quantity or quality, to any area or any person which he supplying, or has failed to give any supply which he is lawfully required to give; or
- (c) having been notified by the Regulatory Board to take such steps as are reasonably practicable in order to remedy any such failure as is mentioned in paragraph (a) or (b), has failed to do so,

the Regulatory Board may inquire into the matter.

(2) If, after inquiry, the Regulatory Board is satisfied that there has been any such failure on the part of the licensee in question, it may by order declare him to be in default and direct him, for the purpose of remedying the default, to take such steps, including the payment of a financial penalty to a person who lodged a complaint, within such periods of time as the Regulatory Board may specify.

(3) A licensee declared to be in default who is dissatisfied with an order of the Regulatory Board under this section may, within thirty days after receipt of the order, appeal to the Water Appeal Board, and the order shall be stayed pending determination of the appeal.

(4) A licensee declared to be in default by order under this section who fails to comply with any requirement of the order within the time specified for compliance with the requirement shall be guilty of an offence.

69. Transfer of functions of licensee

(1) If the Regulatory Board is satisfied that a licensee is guilty of an offence under section 68 (whether or not the licensee has been charged or convicted of such an offence), the Regulatory Board may make an order transferring—

- (a) to another licensee; or
- (b) with the Minister's consent, to the Minister,

such powers functions of the licensee as it may think necessary to remedy any loss of service to consumers occasioned by default.

(2) Such an order shall have effect in accordance with its term, and the Regulatory Board may accordingly—

- (a) amend the license of the licensee from whom the powers and functions have been transferred, and
- (b) where the powers and functions have been transferred to another licensee, amend the license of the transferee.

(3) Where the Regulatory Board has transferred any power of function to another licensee or to the Minister under this section, any expenses incurred by the other licensee or the Minister in exercising and performing any such power of function may be recovered by the regulatory Board in any court of component jurisdiction as a debt from the licensee in default.

(4) The terms of an order transferring any powers and functions of a licensee may provide for—

- (a) the transfer to the other licensee or the Minister of such property and liabilities of the licensee in details as, in the opinion of the Regulatory Board may be necessary or expedient, and
- (b) the compensation on just terms (but taking into account any concurrent transfer of liabilities), of the licensee in default for loss of any property so transferred,

and on revocation of any such order, the Regulatory Board may, either by the revoking order or by subsequent order, make such provision as appears to it be desirable with respect to any property or liabilities then held by the other licensee or the Minister for the purposes of the power or function transferred, and the order shall have effect accordingly.

Powers and Duties of Licensees

70. Duty to provide water services

To the extent required by the licence, it shall be the duty of a licensee to ensure that water services and associated works and facilities are provided, maintained and progressively improved.

71. Agreements as to catchment protection, etc.

(1) A licensee may enter into an agreement with any person with respect to the execution and maintenance, by any party to the agreement, of such works as

the licensee considers necessary or as the conditions of his licence may require for the purpose of catchment protection, drainage of land, carrying out soil conservation measures or the control of vegetation or for more effectively collecting, conveying or preserving the purity and quantity of water which the licensee is for the time being authorised to take.

(2) An agreement under this section may be registered against any land of the person with whom it is made, and shall be binding upon and enforceable against such land or such person or his successor in title.

72. Power of licensee to prohibit or restrict use of water

(1) A licensee who is of the opinion that there is a serious deficiency of water available for distribution or that such a deficiency is threatened may, with the approval of the Regulatory Board, for such period as he thinks necessary prohibit or restrict, as respects the whole or any part of his limits of supply, the use for any specified purpose of water supplied by him.

(2) Before any such prohibition or restriction comes into force, public notice shall be given by the licensee, in one or more newspapers circulating within the affected area or by such other means as the Regulatory Board may approve, of the proposed prohibition or restriction and of the date when it will come into force.

(3) Rules made under this Act may provide that any person who, while such prohibition or restriction is in force, contravenes its provisions shall be guilty of an offence and liable on conviction to a penalty not exceeding one hundred thousand shillings.

73. Power to make regulations

(1) A licensee shall make regulations for or with respect to conditions for the provision of water services and the tariffs applicable.

(2) If it appears to a licensee to be necessary for the purpose of protecting against degradation any water, whether on the surface or underground, which belongs to him or which he is for the time being authorised to take, he may, with the approval of the Regulatory Board, make regulations—

- (a) defining the area within which he deems it necessary to exercise control;
- (b) prohibiting or regulating the doing, within that area, of any act prescribed by such regulations; and
- (c) prescribing penalties not exceeding fifty thousand shillings for contravention of any such prohibition or regulation.

(3) Rules made under this Act may provide that any person who contravenes any regulations made under this section shall be guilty of an offence and liable on conviction to a penalty not exceeding one hundred thousand shillings.

(4) Regulations under this section shall be published in the *Gazette* and shall come into force on the date of such publication or on a later date specified in the regulations.

(5) No regulations under this section shall be published in the *Gazette*, nor shall they if so published be of any force or effect, unless their terms have first been approved by the Regulatory Board.

(6) Without prejudice to the generality of subsection (2), regulations made under this section may empower the licensee, by notice, to require the owner or occupier of any land or premises within a prescribed area within the licensee's limits of supply—

- (a) to execute and keep in good repair such works; or
- (b) to take such other action,

as the licensee considers necessary for preventing degradation of such water:

Provided that any owner or occupier who considers that any such requirement is unreasonable may, within thirty days after service on him of notice of such requirement, appeal to the Water Appeal Board.

(7) A licensee shall pay compensation on just terms to the owner or occupier, as the case may be, of any premises within the prescribed area in respect of—

- (a) any curtailment of or injury to his legal rights by restrictions imposed by such regulations, and
- (b) any expenses incurred by him in complying with a requirement to construct and maintain any works, or take other action, which would not, but for the provisions of this Act, lawfully have been required,

and any disagreement as to the amount of such compensation shall be resolved and determined by the Water Appeal Board.

(8) Where any person has failed to comply with a requirement notified to him in accordance with subsection (6) and—

- (a) he has not appealed against the requirement and the time for appeal has expired; or
- (b) his appeal has been dismissed or the requirement has been affirmed or varied in consequence of his appeal and he has failed to comply with the requirement as so affirmed or varied,

the licensee may, without prejudice to his right to take proceedings in respect of such failure, execute and keep in good repair the works specified in the requirement as originally made or as varied on appeal, and may in any court of competent jurisdiction recover from the owner or occupier concerned, as a debt, expenses reasonably incurred by him in so doing.

(9) Expenses revocable under subsection (8) do not include expenses incurred in respect of—

- (a) works the construction of which; or
- (b) action which,

could not lawfully have been required otherwise than upon payment of compensation by the licensee.

(10) Two or more licensees may combine for the purpose of making and enforcing regulations under this section, and the provisions of this Act shall in any such case have effect as if references therein to a licensee were references to two or more such licensees acting jointly.

(11) Section 34 of the Interpretation and General Provisions Act shall not apply to any regulations made under this section.

74. Duty to enforce regulations

(1) It shall be the duty of any licensee by whom any regulations are made under this Act (Cap. 412) to monitor and enforce them, and any licensee who fails so to do may be ordered by the Regulatory Board to take such action to enforce such regulations as shall be specified in the order.

(2) Where a licensee considers that the operation of any such regulation would be unreasonable in any particular case, he may by notice to any affected part relax or dispense with the requirements of the regulation.

75. Execution of works for protection of water

(1) A licensee may, on any land belonging to him, or over or in which he has acquired any necessary easement or right, construct and maintain drains, sewers and other works for intercepting, treating or disposing of any foul water arising or flowing upon such land or otherwise for preventing water belonging to the licensee, or which he is for the time being authorised to take, from being polluted:

Provided that before constructing any works the licensee, if the proposed works will affect or be likely to affect any body of water in the catchment area in which the works are situated, shall obtain the consent of the Authority.

(2) Any licensee proposing to construct any such drain, sewer or other works may, with the consent of the authority concerned and subject to such conditions as the authority may impose, carry the drain, sewer or other work under, across or along any road or road reserve or public place, whether within or outside the limits of supply of the licensee.

(3) A consent required under subsection (2) shall not be unreasonably withheld, nor shall any unreasonable condition be attached to such consent, and any question arising from the operation of this subsection shall be decided by consultation between the Minister administering this Act and the Minister responsible for the authority concerned.

76. Control of trade effluent

(1) No person shall discharge any trade effluent from any trade premises into the sewers of a licensee without the consent of the licensee.

(2) An application for consent shall be made to the licensee and shall state—

- (a) the nature or composition of the trade effluent;
- (b) the maximum quantity of the effluent which it is proposed to discharge on any one day;
- (c) the highest rate at which it is proposed to discharge the effluent; and
- (d) any other information required by the licensee.

(3) The licensee's consent may be given subject to conditions, including conditions requiring the payment to the licensee of charges for the discharge.

(4) Any person who is dissatisfied with the decision of the licensee on an application under this section may, within thirty days of the decision, appeal to the Water Appeal Board.

(5) A person who contravenes the provisions of this section shall be guilty of an offence.

(6) In this section, “**trade effluent**” means any liquid, whether with or without suspended particles, produced as a by-product in the course of any trade or industry.

77. Sewage service levy

A licensee may, in consultation with the Regulatory Board and with the approval of the Minister, fix and impose a sewerage services levy on all water services within the limits of supply of the licensee, to cover a reasonable part of the cost of disposing of the water supplied within those limits.

78. Acquisition of land

(1) A licensee, or an applicant for a licence, who requires the compulsory acquisition of land for any of its purposes may apply to the Minister, who may, on the advice of the Regulatory Board, and upon being satisfied that such compulsory acquisition is desirable, take any steps necessary to secure the compulsory acquisition of the land in accordance with the Land Acquisition Act (Cap. 295).

(2) The purposes of a licensee or an applicant for a licence shall be deemed, for the purposes of subsection (1), to include any necessary protection of a source of supply which belongs to the licensee or will belong to the applicant, or which he is or will be authorised to take, against pollution or other degradation, whether on the surface or underground.

(3) Any purpose for which land may be acquired under this section shall be deemed, for the purposes of the Land Acquisition Act (Cap. 295), to be a public purpose.

PART V – FINANCIAL PROVISIONS

79. Application of revenue from permit charges and licence fees

(1) The Authority may, with the approval of the Minister and the Treasury, retain in a fund managed by it some or all of the revenue from water use charges payable under a permit, to be applied by the Authority in meeting costs incurred in the performance of its functions.

(2) Without prejudice to the generality of subsection (1), funds retained by the Authority under that subsection may be applied for the payment of compensation payable by the Authority under this Act, whether or not the payment is subsequently recoverable from a permit holder or other person.

(3) The Regulatory Board may, with the approval of the Minister and the Treasury, retain in a fund managed by it some or all of the revenue from licence fees, to be applied by the Regulatory Board in meeting costs incurred in the performance of its functions.

80. Application of revenue arising from schemes and projects

(1) The Minister may retain, in a fund managed by him, some or all of the revenue from rates or charges imposed under section 24, to be applied by the Minister in meeting costs incurred in a scheme or project undertaken in accordance with Part III.

(2) Without prejudice to the generality of subsection (1), the costs of a scheme or project referred in that subsection shall be deemed to include any amount of compensation payable under section 37 as a consequence of the scheme or project.

81. Financial assistance to the Authority and Regulatory Board

For the purposes of their respective functions, the Minister may, out of moneys provided by Parliament or from any other source, provide funds to the Authority and the Regulatory Board in the form of grants, loans or subsidies, subject to such conditions as the Minister may determine.

82. Accounts and audit

(1) The Authority, the Regulatory Board and each water services board shall keep proper books of account of their respective income, expenditure, assets and liabilities.

(2) The accounts of the Authority, the Regulatory Board and each water services board shall be audited and reported on in accordance with the Exchequer and Audit Act.

83. Water Services Trust Fund

(1) There is hereby established a fund to be known as the Water Services Trust Fund.

(2) The object of the Fund is to assist in financing the provision of water services to areas of Kenya which are without adequate water services.

(3) There shall be paid into the Fund—

- (a) such moneys as may be appropriated by Parliament for the purposes of the Fund;
- (b) such moneys as may be received by the Fund from donations, grants, and bequests from whatever source; and
- (c) such other moneys as may, by or under any Act, be payable to the Fund.

(4) The Fund shall be managed by trustees from time to time appointed and holding office under a trust deed, to be drawn up by the Minister.

(5) The trustees shall develop and apply principles governing the grant of moneys from the Fund and for achieving the object of the Fund.

(6) There shall be paid from the fund such grants as the trustees may from time to time authorise in furtherance of the object of the Fund.

PART VI – GENERAL AND SUPPLEMENTAL

*The Water Appeal Board***84. Establishment of the Board**

(1) There is hereby established a board to be known as the Water Appeal Board.

(2) The Board shall consist of—

- (a) a Chairman, to be appointed by the President on the recommendation of the Chief Justice, who shall be a person qualified to hold or who has held the office of a judge of the High Court of Kenya; and
- (b) two other persons, to be appointed by the Minister.

(2) The Fourth Schedule has effect in respect of the membership and procedure of the Board.

85. Jurisdiction of the Board

(1) An appeal shall lie to the Water Appeal Board at the suit of any person having a right or proprietary interest which is directly affected by a decision or order of the Authority, the Minister or the Regulatory Board concerning a permit or licence under this Act, and the Board shall hear and determine any such appeal.

(2) In addition, the Board shall have such jurisdiction to hear and determine disputes, and shall have such other powers and functions, as may be conferred or imposed on it by or under this or any other Act.

86. Time for lodging appeal

No appeal shall be entertained by the Water Appeal Board unless it is lodged—

- (a) within the period elsewhere prescribed by or under this Act for lodgment of an appeal against the decision or order concerned; or
- (b) where no period is so prescribed, then within thirty days after the date on which written notice was served on the appellant notifying him of the decision or order against which he wishes to appeal:

Provided that the Board may in any case, for good cause shown, admit an appeal after the time limited for lodgment of an appeal has expired.

87. Determination of appeals and disputes

(1) In proceedings on any matter before it, the Water Appeal Board shall have and may exercise all the powers vested in Commissioners under section 10, 11 and 13 of the Commissions of Inquiry Act (Cap. 102).

(2) In determining an appeal, the Board may affirm, quash or vary the decision or order concerned, as justice requires.

(3) In determining a dispute, or in exercising any other judicial function, the Board shall decide the matter on the merits of the case and may make such order as, in its judgment, will do justice between the parties.

(4) A judgment of the Water Appeal Board shall be final:

Provided that on a matter of law, an appeal shall lie to the High Court.

88. Rules of the Board

The Water Appeal Board may make rules for or with respect to the lodgment, hearing and disposal of appeals and other matters before it.

Entry on to Land

89. Entry by permit holder or licensee for survey and preliminary investigation

(1) A permit holder, or any person proposing to apply for a permit, wishing to enter on to the land of another person, if his proposal is opposed by the other person, may—

- (a) upon submitting in the manner prescribed—
 - (i) a general description of his proposal;
 - (ii) a schedule of lands which may be affected by the construction and operation of any works to be undertaken pursuant to the permit; and
 - (iii) the names and addresses of the affected landholders; and
- (b) upon payment of the prescribed fee,

obtain from the Authority permission to enter on to the land concerned and to carry out any necessary survey or other preliminary investigation in connection with the location of any such proposed works.

(2) The Authority may prescribe a time limit within which such investigation shall be completed.

(3) The person given permission under subsection (1) or any person authorised by him may, with such assistance as is necessary, enter on to the land concerned and there carry out the investigation for, which the permission was granted.

(4) No such permission shall be given until the Authority has notified each landholder concerned that application to enter his land has been made under this section.

90. Entry by Authority for monitoring of water resource

An employee or agent of the Authority appointed by the Authority for the purpose may without warrant enter on to any land and inspect any water resource located within or accessible from the land concerned, in order to take such measures as the Authority may think fit for the purpose of—

- (a) conserving or regulating the water resource, or preserving it from pollution or protecting the bed over which it lies or flows; or

- (b) removing any obstruction from, or for clearing and deepening, the bed; or
- (c) preventing the excessive or illegal diversion, waste or pollution of the water resource or interference with any such bed.

91. Entry by licensee

An employee or agent of a licensee authorised by the licensee for the purpose may without warrant enter on to any land and inspect any source of water supply which is located within or accessible from the land concerned, in order to take such measures as the licensee, with the approval of the Regulatory Board, may direct for the purpose of—

- (a) preserving the water from pollution or protecting the bed over which it lies or flows; or
- (b) removing any obstruction from, or for clearing and deepening, the bed; or
- (c) preventing the excessive or illegal diversion, waste or pollution of the water or interference with any such bed.

(2) An employee or agent of a licensee authorised by the licensee for the purpose may enter on to any kind or premises in the area to which any regulations of the licensee apply, for the purpose of—

- (a) ascertaining whether there is or has been any contravention of any such regulations;
- (b) in the case of any regulations in respect of tariffs and the payment therefor, exercising any right conferred on the licensee to cut off supplies for non-payment; or
- (c) in the case of any regulations made for preventing water degradation—
 - (i) ascertaining whether or not circumstances exist which would justify the licensee's imposing a requirement to execute works or take other action to prevent degradation; or
 - (ii) exercising any right conferred on the licensee to execute and maintain works or take other action.

92. Entry by inspector

An inspector may without warrant enter any land or premises for the purpose of ascertaining whether there is or has been any contravention of the provisions of this Act or of any rule or order made under this Act in relation to any water resource.

93. Manner of entry

(1) In this section, “**authorised person**” means a person entering on to any land or premises pursuant to a right or permission conferred by or under this Act.

(2) An authorised person shall not enter on to the land or premises without first giving reasonable notice, whether written, verbal or otherwise, to the

landholder or other responsible person in charge of the land or premises, and any such entry shall be at a reasonable hour:

Provided that an inspector may enter without giving notice if—

- (a) he has reason to believe that a provision of this Act or of any rule or order made under this Act has been or is about to be contravened;
- (b) he is unable to give notice within a reasonable time having regard to all the circumstances; or
- (c) he has given reasonable grounds for not giving notice.

(3) If so requested by the owner or occupier of the land or premises, the authorised person shall produce evidence of his right or permission, as the case may be, to enter on to the land.

(4) It shall be the duty of any person exercising any powers under this section to do so with reasonable care and in such a manner as to cause as little damage as possible in so doing.

Miscellaneous

94. Obstruction or pollution of watercourse or water resource

(1) No person shall, without authority under this Act—

- (a) wilfully obstruct, interfere with, divert or abstract water from any watercourse or any water resource, or negligently allow any such obstruction, interference, diversion or abstraction; or
- (b) throw or convey, or cause or permit to be thrown or conveyed, any rubbish, dirt, refuse, effluent, trade waste or other offensive or unwholesome matter or thing into or near to any water resource in such manner as to cause, or be likely to cause, pollution of the water resource.

(2) A person who contravenes this section shall be guilty of an offence.

95. Miscellaneous offences

(1) No person shall—

- (a) wilfully obstruct, molest or hinder any inspector or other employee of or person authorised by the Minister or the Authority acting in the exercise or performance of his powers and functions under this Act;
- (b) without the written permission of the Authority, knowingly or wilfully—
 - (i) deface, alter or remove; or
 - (ii) cause to be defaced, altered or removed,
any survey mark, water gauge, weir or measuring device or other work, structure or approval installed with the approval of Authority for the purposes of water control or investigation;
- (c) wilfully hinder or interrupt, or cause to be hindered or interrupted, any permit holder, or his employee, contractor or agent, in the lawful exercise or performance of any powers and functions under this Act;

- (d) without lawful authority, wilfully let off or discharge water from the works of any permit holder so that the permit holder loses the use of that water;
- (e) without lawful authority, lay, erect or construct, or cause to be laid, erected or constructed, any work to connect with the work of any permit holder which is capable of drawing water from that work;
- (f) unlawfully interfere with the works or water supply of any permit holder; or
- (g) neglect or fail to comply with lawful order given under this Act.

(2) A person who contravenes the provisions of this section shall be guilty of an offence.

96. Remedy of defaults

(1) Where by his act or omission a person contravenes any requirement or prohibition made or imposed by or under this Act, then, without affecting any other liability of the person under this Act or otherwise in respect of the contravention, the Authority may, by order served on the person concerned, require him, within a reasonable time specified in the order—

- (a) to remedy the contravention;
- (b) to clean up any pollution or make good any other detriment identified in the order which was caused to any water resource by reason of the contravention; and
- (c) to remove or destroy any works, plant or machinery employed for the purposes of the contravention.

(2) In default of the person's compliance with such an order, the Authority or a prescribed person or body may take such steps as are necessary to execute the order, and the expenses incurred in doing so shall be recoverable at the suit of the Authority, person or body in any court of competent jurisdiction as a debt from the person to whom the order was given.

(3) A person aggrieved by an order under this section may appeal to the Water Appeal Board.

97. Powers of inspectors

(1) Every permit holder or licensee, and any employee or agent of a permit holder or licensee, shall on demand by an inspector—

- (a) afford to the inspector such information as is within his knowledge in all matters relating to any inquiry held by the inspector under this Act; and
- (b) produce for inspection any licence, map, plan, specification, drawing or other document or record relating to—
 - (i) the permit or licence;
 - (ii) any works constructed under the permit or licence; or
 - (iii) the flow of water in any such works or in any water resource affected by them.

(2) A person who contravenes this section shall be guilty of an offence.

98. Requirement to state name and address

(1) Any person who has committed, or has been accused of committing, an offence under this Act who—

- (a) refuses, on demand of an inspector, to give his name and place of abode and other particulars which the inspector may reasonably require; or
- (b) in purported compliance with such a demand, gives a name, place of abode or other particulars which the inspector has reason to believe to be false,

may be arrested by the inspector without warrant, and handed over to the nearest police officer.

(2) When his true name and place of abode or other particulars have been ascertained, the person concerned shall be released on his executing a bond, if so required, with or without sureties, to appear before a magistrate.

(3) Should the person's true name and place of abode other particulars not be ascertained within twenty-four hours from the time of his arrest, or should he fail to execute such a bond or, if so required, to furnish sufficient sureties, he shall forthwith be brought before a magistrate having jurisdiction in the area:

Provided that, if there is no magistrate then in the area before whom the person can conveniently be brought, the person may be detained in custody until a magistrate is available.

99. Service of notices

(1) Any notice required to be served in pursuance of this Act shall be served—

- (a) by delivering it personally to the person required to be served, or, if such person is absent or cannot be found—
 - (i) by leaving it at the person's usual or last known place of abode in Kenya; or
 - (ii) by post, addressed to the person's usual or last known address in Kenya; or
- (b) in the case of a notice required to be served on a local authority, company or other corporate body, by delivering it to its principal officer or by leaving it at his office with some person employed there, or by post.

(2) If any landholder is not known and, after diligent inquiry, cannot be found, such notice may be served on him by leaving it, addressed to him, with some occupier of the land or, if there is no apparent occupier, by causing it to be put in a conspicuous position on the property in Kenya last known to have been occupied by him.

(3) Any notice required to be given to landholder may be addressed to "the owner" of land or premises described in the address in respect of which the notice is given, without further name or description.

100. Order, etc., to be in writing

Any order, notice, consent, approval, permission, demand, objection, application or other thing authorised or required by this Act to be given, made or issued by or to the Minister, the Authority, the Regulatory Board or any other person shall be in writing.

101. Authentication of documents

(1) Any order, notice, consent, approval, demand or other document which the Authority is authorised or required by or under this Act to give, make or issue may be signed on behalf of the Authority—

- (a) by the Chief Executive Officer of the Authority; or
- (b) by any officer of the Authority authorised by it in writing to sign documents of the particular kind or to sign the particular document.

(2) Any order, notice, consent, approval, demand or other document which the Regulatory Board is authorised or required by or under this Act to give, make or issue may be signed on its behalf—

- (a) by the Chief Executive Officer of the Board; or
- (b) by any officer of the Board authorised by it in writing to sign documents of the particular kind or to sign the particular document.

(3) Any document purporting to bear the signature of any person—

- (a) expressed to hold an office by virtue of which he is under this section empowered to sign a document; or
- (b) expressed to be duly authorised by the Authority or the Regulatory Board to sign such a document or the particular document,

shall, for the purposes of this Act, be deemed, unless the contrary is proved, to be duly given, made or issued on behalf of the Authority or the Regulatory Board, as the case may be.

102. Permit or licence to be evidence of power or function

The production of—

- (a) a permit, or a copy of a permit, purporting to be certified by the Chief Executive Officer of the Authority; or
- (b) a licence, or a copy of a licence, purporting to be certified by the Chief Executive Officer of the Regulatory Board,

shall without further proof be *prima facie* evidence in any proceedings of the matters and things specified therein.

103. Protection of the Minister and others from liability

No matter or thing done or omitted by—

- (a) the Minister, the Authority, the Regulatory Board, a catchment area advisory committee, a water services board or the Water Appeal Board;
- (b) any person acting at the direction of the Minister; or

- (c) any member of or person acting at the direction of the Authority, the Regulatory Board or any such other board or committee,

shall, if the matter or thing was done or omitted in good faith for the purpose of executing this Act or any rule, regulation or order made under this Act, subject the Minister or any such member or person in his personal capacity to any action, suit, claim or demand whatsoever.

104. Proceedings for offences

Without prejudice to the rights of any person to bring proceedings in respect of an offence, the Minister, the Authority or Regulatory Board may institute and maintain criminal proceedings in any court against any person accused of an offence under this Act or under any rules or regulations made under this Act.

105. Penalties for offences

A person who is guilty of an offence under this Act, or under any rules or regulations made under this Act, shall, if no other penalty is prescribed in respect of the offence, be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding twelve months, or to both.

106. Application of Act to Trust land

Notwithstanding anything contained in this Act, any powers and functions conferred or imposed by or under this Act shall in respect of Trust land be exercised and performed subject to any written law relating to that land.

107. Public consultation

(1) A requirement imposed by or under this Act for a person (in this section called the "designated person") to undertake public consultation in relation to any application made, or action proposed to be taken, under this Act shall be construed as a requirement to ensure that this section is complied with in relation to that application or action.

(2) The designated person shall publish a notice, in relation to the application or proposed action—

- (a) in the *Gazette*;
- (b) in at least one national newspaper circulating in the locality to which the application or proposed action relates; and
- (c) in at least one Kenyan radio station broadcasting in that locality.

(3) The notice shall in each case—

- (a) set out a summary of the application or proposed action;
- (b) state the premises at which the details of the application or proposed action may be inspected;
- (c) invite written comments on or objections to the application or proposed action;
- (d) specify the person or body to which any such comments are to be submitted; and

- (e) specify a date by which any such comments are required be received, not being a date earlier than 30 days after publication of the notice.

(4) The designated person shall make arrangements for the public to obtain copies, at reasonable cost, of documents relating to the application or proposed action which are in the possession of the designated person.

(5) The designated person shall consider—

- (a) any written comments received on or before the date specified under subsection (3)(e); and
- (b) any comments, whether in writing or not, received at any public meeting held in relation to the application or proposed action at which the designated person was represented, or pursuant to any other invitation to comment.

(6) The designated person shall publish, through the same media as were employed pursuant to subsection (2), notice of the fact that a copy of the decision in writing of the designated person in relation to the application or proposed action, and of the reasons therefor, is available for public inspection at the same premises as were notified under subsection (3)(b).

(7) Where rules made under this Act so require, the designated person shall cause a public meeting to be held in relation to the application or proposed action.

108. Emergency powers in case of shortage water

(1) If the Minister, on the advice of the Authority, is satisfied that, by reason of an exceptional shortage of rain or by reason of accident or other unforeseen circumstances, a serious deficiency of water for essential domestic purposes exists or is threatened in any area, he may by order—

- (a) declare that an emergency exists; and
- (b) direct a person who has a supply of water in excess of his needs for domestic purposes to supply to the area concerned, or to a specified person in the area, such quantity of water, and for such period, as the order may specify.

(2) Any person so directed by an order under this section who fails to comply with the provisions of the order concerned shall be guilty of an offence.

(3) An order under this section may require or authorise—

- (a) the laying of pipes and the construction of works on any land;
- (b) the entry on to any land by servants or agents of the Authority; and
- (c) such other measures as the Minister may consider necessary for the giving and taking of any such water.

(4) If a person to whom an order under this section is directed fails to comply with the order, the Minister, or any person deputed by him for the purpose—

- (a) may take possession of the water supply and operate any works of the person concerned for the drawing, diversion or use of water; and

- (b) shall have and may exercise the person's rights in connection with them during the period of the order, subject to any conditions imposed by the order.

(5) It shall be the duty of any person exercising any powers under this section to do so with reasonable care and in such a manner as to cause as little damage as possible in so doing.

(6) A payment made under subsection (5), or such proportion of it as the Minister may determine, may be recovered by the Minister, as a debt due to the Government, from a person benefiting by the supply of water under the order.

(7) A person who, without lawful authority, hinders or obstructs any person acting in pursuance of an order under this section, or interferes with any works constructed or under construction in pursuance of such an order, shall be guilty of an offence.

109. No warranty implied by inspection

No inspection, in pursuance of this Act, of any works authorised to be constructed under this Act shall be deemed to constitute or imply any guarantee of the works constructed, or to support or justify any claim whatsoever against the Authority, the Regulatory Board, the Minister or the Government in connection with any such works.

110. Rules

(1) The Minister may make rules, not inconsistent with this Act, for or with respect to any matter which by this Act is required or permitted to be prescribed, or which is necessary or expedient to be prescribed for carrying out or giving effect to this Act (Cap. 372).

(2) Without prejudice to the generality of subsection (1), such rules may make provision for or with respect to—

- (a) delegation by the Authority or the Regulatory Board of their respective powers;
- (b) abstraction of ground water and works therefor;
- (c) the construction and maintenance of weirs, flumes, sluice-gates valves or other controlling or measuring devices;
- (d) construction, extension or improvement of dams, and licensing of persons carrying on business as dam constructors;
- (e) temporary works;
- (f) inspection of works;
- (g) abandoned works;
- (h) plans and specifications to be submitted by applicants under this Act;
- (i) charges for water use under a permit and fees for licences;
- (j) forms to be used under this Act;
- (k) drainage and reclamation of swamps;

- (l) the provision of bottled or mineral waters;
- (m) protection of fish and fish food;
- (n) state and community projects;
- (o) any saving or temporary provision in consequence of the repeal of the Water Act.

(3) The Authority may make rules, not inconsistent with this Act, for or with respect to any matter which by this Act is required or permitted to be prescribed by the Authority.

(4) Rules made under this section may create offences in respect of any contravention of the rules and may for any such offence impose penalties not exceeding fifty thousand shillings or imprisonment for six months, or both.

Repeals, Savings and Transitional Provisions

111. Repeals

(1) The Water Act (Cap. 372) is hereby repealed.

(2) Sections 168-176 of the Local Government Act (Cap. 265) are hereby repealed.

(3) Notwithstanding the repeals effected by this section—

- (a) the Water Resources Authority, a Local Water Authority, the Water Apportionment Board and any other body established under an enactment repealed by this section shall be deemed to continue in being; and
- (b) any person or body performing any functions under such an enactment shall continue to do so, and in so doing may exercise any power vested in the person or body in connection with the performance of such functions,

until the Minister, by a notice or notices in the *Gazette*, revokes this subsection in full or in part as may be necessary.

112. Existing water rights

A right to the use of water in any body of water, being a right existing immediately before the commencement of this section and which was acquired—

- (a) under any provision of the Water Act repealed by this Act;
- (b) under the Water Ordinance, 1929;
- (c) by specific grant, before 1st July, 1935, by or on behalf of the Government in any title under the Government Lands Act or under the Crown Lands Ordinance, 1902 (now repealed); or
- (d) by agreement or otherwise,

shall be deemed to be a right conferred by a permit under this Act, and any instrument by which the right was conferred shall be deemed to be such a permit, and may be dealt with under this Act accordingly.

113. Transfer of water services

(1) As soon as reasonably practicable after the commencement of Part I of this Act, and following public consultation, the Minister shall publish by notice in the *Gazette* a plan for the transfer of the management and operation of water services to water services boards established under this Act.

(2) The plan shall—

- (a) provide details of the institutional, contractual and financial arrangements, capacity building, organisational restructuring, transitional and other measures necessary to ensure an efficient, cost-effective and orderly transfer of the management and operation of water services;
- (b) prescribe appropriate arrangement for transferring to water services boards the ownership of plant, equipment or other assets used by the Government in connection with water services, whether with or without any associated liabilities; and
- (c) prescribe appropriate arrangements for water services boards to obtain the use of plant, equipment or other assets used by a local authority or other person in connection with water services; and
- (d) specify measures to give effect to the plan within a specified time.

(3) Rules made under this Act may make such provision as may be necessary to give effect to the plan in respect of any particular water services.

114. Arrangements pending transfer

Notwithstanding any repeal or amendment effected by or under this Act—

- (a) a local authority or other person who, immediately before the date on which the repeal or amendment took effect, was a water undertaker within the meaning of the Water Act shall, until the coming into force of any rules to the contrary under section 113, continue to exercise and perform the same powers and functions as a water undertaker as it was exercising immediately before that date, as if it were the holder of a licence under this Act conferring or imposing such powers and functions upon it; and
 - (b) for the purposes of the exercise and performance of functions in accordance with paragraph (a), the repealed provisions the Water Act (Cap. 372), and the provisions of sections 168-176 of the Local Government Act (Cap. 265), and any by-laws or other subsidiary legislation made for the purposes of any such provisions, shall be deemed to continue in force.
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FIRST SCHEDULE

[Sections 7, 15, 46 and 51.]

MEMBERSHIP AND PROCEDURE OF BOARDS AND COMMITTEES

1. Application of this Schedule

- (1) This Schedule applies to—
- (a) the governing board of the Authority;
 - (b) the Regulatory Board;
 - (c) every catchment area advisory committee; and
 - (d) every water services board.
- (2) In this Schedule, unless the context otherwise requires—
- “**board**” means a board to which this Schedule applies;
- “**Chairman**” means the Chairman of a board or committee;
- “**committee**” means a catchment area advisory committee;
- “**member**” means a member of a board or committee.

2. Qualification of members

In making an appointment to a board or committee, the person making the appointment shall have regard to—

- (a) the educational qualifications, experience, expertise, character and integrity of potential candidates for membership; and
- (b) the degree to which water users, or water users of particular kinds, are represented on the board or committee at the time the appointment is made.

3. Term of office

(1) A member shall hold office for such term, not exceeding three years, as may be specified in the instrument of his appointment.

(2) A member shall be eligible (if otherwise qualified) for reappointment from time to time.

4. Acting Chairman

(1) A person may from time to time be appointed to act in the office of Chairman during the illness or absence of the Chairman, and a person so appointed shall, while so acting, have all the functions of the Chairman and shall be deemed to be the Chairman.

(2) An appointment under this paragraph may be made, and at any time revoked, by the person or body who appointed or elected the Chairman or by any of their successors in office.

(3) For the purposes of this paragraph, a vacancy in the office of Chairman shall be deemed to be an absence from office of the Chairman.

5. Terms and conditions of service

The terms and conditions of service of a member, including the remuneration, travelling and other expenses to which he is entitled, shall be as prescribed by rules made under this Act.

6. Vacancy in office of member

(1) The office of a member shall become vacant if—

- (a) he dies, resigns or is removed from office;
- (b) he absents himself from four consecutive meetings of the board or committee of which reasonable notice has been given to him personally or in the ordinary course of post, unless—
 - (i) the board or committee has granted the member leave to be absent from those meetings; or
 - (ii) within four weeks after the last of those meetings, he is excused by the board or committee for having been absent from those meetings;
- (c) he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit,
- (d) he is adjudged or declared by any competent court or tribunal to be of unsound mind; or
- (e) he is convicted of an offence punishable by imprisonment for 12 months or more.

(2) If the office of a member becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

7. Disclosure of pecuniary interests

(1) A member who has a direct or indirect pecuniary interests—

- (a) in a matter which is being considered, or is about to be considered, at a meeting of a board or committee of which he is a member; or
- (b) in a thing being done or about to be done by the board or committee,

shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of the interest at a meeting of the board or committee.

(2) A disclosure at such a meeting that the member concerned—

- (a) is a member, or is in the employment, of a specified company or other body;
- (b) is a partner, or is in the employment, of a specified person; or
- (c) has some other specified interest relating to a specified company or other body or a specified person,

shall be deemed to be a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure.

(3) The board or committee shall cause particulars of any disclosure made under subparagraph (1) or (2) to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to the inspection, free of charge, of any person.

(4) After a member has, or is deemed to have, disclosed the nature of an interest in any matter or thing under subparagraph (1) or (2), the member shall not, unless it is otherwise determined—

- (a) be present during any deliberation, or take part in any decision, of the board or committee with respect to that matter; or
- (b) exercise or perform any powers or functions under this Act with respect to that thing,

as the case may require.

(5) A determination under subparagraph (4) may only be made—

- (a) in relation to the governing board of the Authority or the Regulatory Board by the Minister;
- (b) in relation to a catchment area advisory committee-by the Authority; or
- (c) in relation to a water services board-by the Regulatory Board.

(6) Subparagraph (4) does not apply to a member whose interest consists merely of the fact that the member is the holder of a permit.

(7) A contravention of this paragraph does not invalidate any decision of the board or committee or the exercise or performance of any power or function under this Act.

(8) A reference in this paragraph to a meeting of a board or committee includes a reference to a meeting of any subcommittees of the board or committee.

8. General procedures

Except as otherwise provided by or under this Act—

- (a) meetings of a board or committee shall be held at such times and places as are fixed by the Chairman; and
- (b) the procedure for the convening of meetings and for the conduct of business at those meetings shall be as determined by the Chairman.

9. Quorum

A majority of the members for the time being holding office as members of a board or a committee shall constitute a quorum at any meeting of the board or committee.

10. Presiding members

The Chairman (or, in the absence of the Chairman, a member appointed by the members then present) shall preside at a meeting of a board or committee.

11. Decisions

A decision supported by a majority of the votes cast at a meeting of a board or committee at which a quorum is present shall be the decision of the board or committee.

12. Record of proceedings

(1) The presiding member at a meeting of a board or committee shall cause a record of the proceedings at the meeting to be made.

(2) Records made for the purposes of this paragraph may be destroyed after the expiry of the period prescribed by rules made under this Act.

13. First meeting

(1) The first meeting of the governing board of the Authority or of the Regulatory Board shall be called by the Minister in such manner as the Minister thinks fit.

(2) The first meeting of a catchment area advisory committee shall be called by the Authority in such manner as the Authority thinks fit.

(3) The first meeting of a water services board shall be called by the Regulatory Board in such manner as the Regulatory Board thinks fit.

SECOND SCHEDULE

[Section 27.]

CONDITIONS RELATING TO CONSTRUCTION OF WORKS**1. Meaning of “authorised works”**

In this Schedule, “**authorised works**” means works the construction of which is authorised by a permit.

2. Inspection of works during construction

Any authorised works may, if the Authority so determines, be inspected during construction by its officers.

3. Works to be made secure

(1) Upon any inspection made under this Schedule, the Authority may order the permit holder to make any addition or alteration which it considers necessary for the security of any authorised works, whether completed or in the course of construction.

(2) If such an order is not completed with to the satisfaction of the Authority within such period as it may specify, the permit authorising construction of the works may be cancelled or modified by the Authority.

4. Road crossings

(1) A permit holder constructing any authorised works—

- (a) shall, during their construction, keep open for safe and convenient travel all public roads and rights of way, publicly used as such, when they are crossed or interfered with by the works; and

- (b) shall, before water is admitted to the works, construct to the satisfaction of the local authority concerned (or, at the option of the local authority, refund to it the costs of construction by it of)—
- (i) a substantial bridge with proper and sufficient approaches thereto over the works; and
 - (ii) such railings, fences, guard posts, culverts, face-walls and other structures and appurtenances as the local authority, with the approval of the Authority, may declare to be necessary in the public interest.

(2) All such bridges, approaches and appurtenances shall be maintained by the permit holder, while his permit is valid, or alternatively, at the option of the local authority, by the local authority at the expense of the constructor.

(3) The local authority concerned may at any time, at its own cost, renew or alter any such bridge or any structure or works in connection therewith.

5. Completion certificate and inspection

(1) Upon the expiration of the time limited by a permit for the construction of works authorised by the permit, or before the expiration of that time, if the construction be sooner completed, the permit holder shall submit a completion certificate in the prescribed form.

(2) Thereupon an inspection may be made, by an officer appointed for the purpose by the Authority, to ascertain that—

- (a) the works have been completed in accordance with the permit;
- (b) the easements, if any, for the works have been obtained;
- (c) agreements, if any are necessary, have been entered into for the supply of water for utilisation on lands which are not the property of the permit holder or for the drainage of lands; and
- (d) the works as constructed are of the required capacity.

(3) If construction is not completed within the time limited by the permit, a progress report shall be submitted in lieu of a completion report, and the permit holder may apply for an extension of time.

(4) An extension of time under subparagraph (3) may be refused or may be sanctioned upon such terms as the Authority may specify.

6. Forfeiture of rights of works not completed within time allowed

Upon the expiration of the time limited by a permit for the construction of works authorised by the permit, or by any extension of that time, the rights granted to the permit holder under the permit shall cease and determine, and any works constructed, erected, fixed or acquired at the date of such determination may be taken over and operated, or disposed of, in such manner as the Authority may specify.

7. Works to be kept in repair

Every permit holder shall maintain and retain his works in a good, proper and workmanlike manner to the satisfaction of the Authority, so that—

- (a) they are, at all times, of sufficient strength and capacity for the fulfilment of the purposes for which they were constructed; and
- (b) no damage occurs to any road, property or work in their vicinity.

THIRD SCHEDULE

[Section 28.]

EASEMENTS**1. Encumbrances**

The acquisition of an easement in accordance with this Schedule shall not affect the burden or benefit of any encumbrance on the land existing at the date of the acquisition or the liability or right of any person in respect thereof.

2. Easement includes right of access

(1) An easement shall include the right of access, along a route to be approved by the Authority after consultation with the owner, to any piece of land contiguous to the water of the permit holder in so far as may be necessary for the purpose of constructing, inspecting, maintaining, operating or repairing the works of the permit holder and for any purpose necessary for the effective enjoyment of the easement.

(2) The permit holder shall, however, give reasonable notice to the occupier of the land over which the easement is held of his intention to enter the land for any of the purposes mentioned in this paragraph.

3. Permit holder must avoid flooding lands and maintain canal satisfactorily

A permit holder who has acquired an easement which authorises the construction of a canal—

- (a) shall take and maintain adequate measures for preventing the introduction into the canal of a greater quantity of water than that which the canal is capable of carrying; and
- (b) shall not cause damage to any land in respect of which the easement is held by permitting the accumulation of weeds, silt or any other obstruction or nuisance which might cause flooding or any other damage whatsoever.

4. Damage caused by works of permit holder

(1) If damage is caused, as the result of works of a permit holder, to the land over which the easement is held, the landholder may require the permit holder to construct such additional works as are necessary, in the opinion of the Authority,

to prevent such damage or any recurrence thereof, and the Authority may by order require the permit holder to construct such additional works at his sole expense.

(2) If the permit holder fails to comply with an order of the Authority given under this paragraph, the Authority may cancel his permit.

5. Permit holder to construct works to enable landholder to enjoy his existing works if interfered with

(1) A permit holder who has acquired an easement for the construction of works on another landholder's land which prevents the landholder passing freely over or on his land as he could before, or interferes with his existing works, structures or devices upon his land, shall, at his own expense, construct and maintain in repair, to the satisfaction of the Authority and under such conditions as it may prescribe—

- (a) such bridges and other structures and devices as will make communication safe and convenient; or
- (b) such works, structures or devices as the Authority considers necessary to enable the landholder effectually to enjoy the use of any work, structure or device interfered with.

(2) Any permit holder who fails to comply with the provisions of this paragraph shall be guilty of an offence.

6. Permit holder desiring easement to serve notice on landholder

(1) A permit holder claiming an easement under this Act shall serve a notice on the holder of the land on, over or through which he desires to acquire the easement, and shall in such notice state the following particulars, and such further particulars as may be required by rules made under this Act—

- (a) a description of the proposed works and a statement of their use;
- (b) a statement of the quantity or discharge of water, if any, to be diverted or dealt with;
- (c) a map showing clearly the nature and locality of any works or area of swamp or land to be reclaimed, if the easement is for reclamation of a swamp or lands;
- (d) a statement of the area of the land (if any) which is or will be—
 - (i) occupied by the works;
 - (ii) flooded as a result of the works;
 - (iii) required for the purposes of inspection and maintenance of the works;
 - (iv) required for the excavation or collection of material for the works, or for the deposit of soil or material derived from the works;
 - (v) required for a road or roads to obtain access to the works; or
 - (vi) required for the control or prevention of pollution of the water to be used; and
- (e) a statement of the compensation which is offered and the period of time during which the permit holder wishes to enjoy the easement.

(2) A copy of the notice shall be sent by the permit holder to the Authority.

7. Consent of landholder to easement

If the landholder agrees to the claim for an easement, either as originally proposed or as modified by agreement, the permit holder—

- (a) shall embody the particulars and other matters pertaining thereto in a deed or other instrument suitable for registration; and
- (b) after its execution by the parties concerned, shall send two copies of such deed or other instrument, certified by the Registrar of Titles, to the Authority.

8. Application if landholder does not consent

If the landholder does not, within two months after the service of a notice under this Schedule, agree to the claim for an easement or to any other matter necessary for an easement, the permit holder may apply to the Authority, in the prescribed manner, for an easement, and shall serve notice of such application upon the landholder.

9. Determination application to easement

(1) The Authority may either dismiss the claim for an easement or grant the claim with or without modification and subject to such conditions, and to the payment of such compensation, as to the Authority seems just.

(2) The Authority shall notify the permit holder and the landholder of its decision.

(3) When the claim for an easement has been granted, the permit holder shall embody the particulars and other matters pertaining to an easement granted under subparagraph (1) of this paragraph in a deed or other instrument suitable for registration, and shall tender the deed or instrument, together with the amount of any award of compensation made, to the landholder for execution.

(4) If the landholder fails within such time as may be specified by the Authority to execute and deliver the deed or instrument to the permit holder, the Authority may do so on his behalf, and thereupon the deed or instrument shall have the same effect as if it had been executed by the landholder.

(5) The Registrar of Titles shall register the deed or instrument against the title affected, and two copies of such deed or instrument, certified by the Registrar of Titles, shall be sent by the permit holder to the Authority.

(6) Where an appeal has been lodged under subparagraph (2) of this paragraph, no action shall be taken under subparagraphs (3), (4) or (5) of this paragraph until the appeal has been decided.

10. Lapsing of easement

(1) An easement acquired under this Act shall lapse—

- (a) if the works authorised are not completed and the water is not utilised within one year from the date of acquiring the easement or within such further period as the Authority may determine; or

- (b) if, at any time, substantial use is not made of the permit in accordance with the terms of the permit for a continuous period of two years, or such longer period as the Authority may, from time to time, in any particular case, determine.

(2) Upon the lapse of an easement, the Authority shall notify the Registrar of Titles, who shall, without charge, cancel the registration of the easement against the title affected.

11. Permit holder to keep works in state of repair

(1) If any work constructed on the land of a person other than the permit holder is out of repair or requiring cleaning, the permit holder or agent shall, if required in writing by the landholder to repair or clean such work, carry out such requirements within a reasonable time.

(2) If the permit holder fails so to do, the landholder may cause to be done all things necessary for carrying out such repairs or cleaning, and may recover the cost thereof from the permit holder in any court of competent jurisdiction.

(3) Such repairs or cleaning shall not be unreasonably demanded, and, in the event of a dispute between the parties, the Authority shall decide what constitutes reasonable repairs or cleaning.

(4) A permit holder who allows or suffers any such works to fall into disrepair or, in the opinion of the Authority, to be in such a state as to require cleaning shall be liable for all damage which may arise as a consequence.

14. Landholder may demand and obtain use of works

(1) Any landholder on, over or through whose lands an easement has been applied for or been granted may, by application to the Authority either before or after the construction of any works, apply for a permit to make use of such works or the proposed works for the diversion, abstraction, storage or use of whatever water he may become entitled to divert, store or use under this Act.

[Editorial Note: Numbering as per original *Gazette*.]

(2) Before such a permit or authorisation is issued by the Authority—

- (a) the landholder shall prove, to the satisfaction of the Authority, that the works of the permit holder can be satisfactorily used for the purpose of the landholder and without material detriment to the permit holder; and
- (b) such proportionate cost of the works shall be paid by the landholder to the permit holder who constructed or is constructing the works as may be agreed on between the parties or, failing agreement, as may be determined by the Water Appeal Board.

(3) The permit holder may require the landholder to enter into an agreement to continue to pay the proportionate cost of maintaining the portion of the works made use of, until either party has in writing surrendered such right of user and, in the event of disagreement, the matter shall be decided by the Water Appeal Board.

(4) If such works require modification to enable the landholder to enjoy their use, he shall, unless the matter is otherwise agreed, pay to the permit holder—

- (a) the entire cost of modifying them in the manner approved by the Authority; and
- (b) the cost of constructing and maintaining such devices for apportioning the quantities of water as the Authority may prescribe or approve.

(5) When it is proved to the satisfaction of the Authority that altered conditions have rendered revision of such rate of payment just and equitable, the Authority shall inform the parties concerned, and, failing agreement between such parties on any such revision of the rate of payment, the matter shall be referred to and decided by the Water Appeal Board.

15. Landholder may use land occupied by excavated material for own purposes

When works have been excavated by a permit holder on another person's land—

- (a) any land used solely for the deposit of excavated material from the works executed shall, notwithstanding the payment of compensation and except in the case of an easement for drainage or reclamation, remain available to the landholder for his own purposes; and
- (b) the landholder may remove such excavated material:

Provided that no damage shall be done to the works of the permit holder, nor shall the works be obstructed or interfered with by such removal.

16. Easement to be registered

The deed or other instrument creating an easement acquired under the Schedule shall be registered against the title affected, and a plan, which shall be approved and signed by, or by the authority of, the Director of Surveys, shall be attached to each document granting the easement.

17. Determination of easement

(1) An easement acquired under this Act shall determine if and when the permit for the exercise of rights under which the easement has been acquired is cancelled as provided for in this Act.

(2) On the determination of the relevant permit, any works constructed by the permit holder on the lands of another person shall, where the permit holder is the sole permit holder, become the property of such other person unless removed by the permit holder—

- (a) voluntarily, within two years from the date of such determination; or
- (b) at the order of the Authority at the request of the other person.

18. Registration of determination or variation of easement

On the determination or variation of an easement, the Authority shall notify the landholder over whose land the easement was granted, and the Registrar of Titles and the landholder concerned may, at the expense of the person in whose

name the easement is registered, take such action as is necessary to cause his title to be freed from the easement or to record the variation, as the case may require.

FOURTH SCHEDULE

[Section 45.]

ABSTRACTION OF GROUND WATER

1. Application of this Schedule

This Schedule shall apply to the extraction of ground water whether or not for a purpose or in circumstances which require a permit.

2. Notice of intention to construct well

(1) No person shall construct or begin to construct a well without having first given to the Authority notice of his intention to do so and shall comply with such requirements as may be imposed by the Authority.

(2) Unless otherwise exempted, a person constructing a well shall keep a record of the progress of the work, which shall include—

- (a) measurements of the strata passed through and specimens of such strata;
- (b) measurements of the levels at which water was struck; and
- (c) measurements of the quantity of water obtained at each level, the quantity finally obtained and the rest level of the water.

(3) A person to whom subparagraph (2) applies shall allow any person authorised by the Authority, at any reasonable time—

- (a) to have free access to the well;
- (b) to inspect the well and the material excavated from it;
- (c) to take specimens of such material and of water abstracted from the well; and
- (d) to inspect and take copies of or extracts from the record required to be kept under this paragraph.

(4) Where the person constructing a well on any land is not the occupier of the land, the obligation to allow any person authorised by the Authority to exercise his rights under this paragraph shall be the obligation of the occupier of the land as well as of the person constructing the well.

(5) The Authority may by notice, whether conditionally or subject to specified conditions, exempt any person, in such circumstances as may be specified in the notice from the operation of subparagraphs (2) and (3).

3. Submission of records

A person constructing a well, if required to keep records under this Part, shall, within one month of the cessation of the construction, send to the Authority—

- (a) a complete copy of the record, together with the specimens referred to in the record; and

- (b) particulars of any test made, before such cessation of the construction, of the yield of water, specifying—
 - (i) the rate of flow throughout the test and the duration of the test; and
 - (ii) where practicable, the water levels during the test and thereafter until the water has returned to its natural level; and
- (c) a statement of whether, in his opinion (as determined by tasting) the water is suitable for drinking or is highly mineralised, as the case may be; and
- (d) if required by the Authority, such water samples as it may consider necessary.

4. Tests on neighbouring wells

(1) Where any well is being constructed within eight hundred metres of an existing well, the Authority may by notice require the person constructing the well to apply tests, to be specified in the notice, to the existing well and to supply to the Authority the particulars of the results of such tests including the rate of pumping and rest levels of water.

(2) Where the well to which the tests are to be applied is situated on the property of a person other than the person constructing the well and the person constructing the well is unable for any reason to apply the test, the Authority may by notice, require the person upon whose property the existing well is situate to apply the tests to be specified in the notice to him, and to supply to the Authority the particulars of the results of such tests.

5. Contractor deemed to be construction

Where any borehole contractor constructs a borehole for the purposes of a well on land belonging to or occupied by any other person, the borehole contractor shall be deemed, for the purposes of this Act, to be the person constructing the well.

6. Records may be required to be treated as confidential

A person constructing a well or the owner or occupier of the land on which construction takes place may give notice to the Authority requesting that—

- (a) any copy of, or extract from, the record required to be kept under this Act; or
 - (b) any specimen taken or any other particulars connected with the well;
- be treated confidentially.

(2) In response to such a notice, the Authority shall, if sufficient cause has been shown, thereupon not allow such copy extract, specimen or other particulars, except in so far as it contains or affords information as to water resources or supplies, to be published or shown to any person other than a member of the Authority without the consent of the person giving the notice:

Provided that, if at any time the Authority gives notice to the person that, in its opinion, his consent is unreasonably withheld—

- (i) the person may, within three months after the notice given by the Authority, appeal to the Water Appeal Board; and

- (ii) if, at the expiration of that period, no such appeal has been made or, after hearing the appeal, the Water Appeal Board does not make an order restraining it from doing so, the Authority may proceed as if such consent had been given.

7. Waste of ground water

(1) No person shall, except with the written permission of the Authority—

- (a) cause any ground water to run to waste from any well, except for the purpose of testing the extent or quality of the supply or cleaning, sterilising, examining or repairing the well;
- (b) abstract from any well water in excess of his reasonable requirements and which he cannot use in a reasonable and beneficial manner;
- (c) conduct the water from any well through any channel or conduct so that more than twenty percent of the water is lost between the point of appropriation and the point of beneficial use;

Provided that, where the water from any well is conducted through channels or conducts together with water from other sources, no person shall permit the waste of more than twenty percent of the water in conducting the water from the point of appropriation of the well water to the point of beneficial use;

- (d) use any water from any well for the purpose of domestic use or the watering of stock, except where such water is carried through pipes fitted with float valves or other satisfactory means of control, to prevent waste:

Provided that, where ground water interferes or threatens to interfere with the execution or operation of underground works, whether water works or not, the Authority may, in any particular case, by notice permit such water to waste upon such conditions, regarding quantity and method of disposal, as the notice may specify.

8. Detective wells

(1) Any well which encounters salt water, in this Part referred to as a “defective well”, shall be securely cased, plugged or sealed off by the owner of the well, so that the salt water is confined to the strata in which it was found, and such casing, plugging or sealing shall be done in such a manner as effectively to prevent the salt water from escaping from the strata in which it was found into any other water-bearing strata or on to the surface of the ground.

(2) This paragraph shall apply to wells constructed before or after the commencement of this paragraph.

9. Interference with defective well

Any person who re-cases or removes the plugs or seals from a defective well, or deposits, or causes or knowingly permits the deposit of, any dirt, rubbish or other material in any such well, except with the written permission of the Authority, shall be guilty of an offence.

10. Application to can out work on a defective well

(1) Before any defective well is re-cased or the plugs or removed, the owner of the well, or his duly authorised representative, shall file with the Authority an application for permission to carry out such re-casing or the removal of the plugs or seals.

(2) The application shall contain such information as the Authority may require to—

- (a) the name and address of the owner of the well;
- (b) its location, depth and size;
- (c) the amount and location of casing or sealing in the well;
- (d) the distance below the surface of the ground to the water level in the well;
- (e) the strata penetrated;
- (f) the distance from the surface of the ground to the top of the salt water stratum and the thickness of the salt water stratum; and
- (g) any other matter specified by the authority in respect of the well.

(3) The application shall also state the methods proposed for recasing, replugging or resealing of the well.

11. Instructions to deal with defective well

The Authority, after consideration of any application under paragraph 10, may call for additional data, and may make such investigation as it considers necessary, and if the well is found to contain salt water, shall by order give instructions to the applicant, specifying—

- (a) the work that shall be done by the owner to place it in a satisfactory condition; and
- (b) the time that shall be allowed to complete the work,

and may inspect such work while it is in progress.

12. Authority may inspect well

The Authority may on its own initiative, or upon information or complaint from any source, make an examination of any well suspected of containing salt water, and may by order issue instructions for curing any defects in the well.

13. Sworn statement to be submitted

(1) Upon completion of the works in pursuance of any instructions issued under the Schedule—

- (a) the contractor who carries out the work; or
- (b) if the work is done without a contractor, the owner of the well,

shall file with the Authority a statement sworn or affirmed specifying in detail the manner in which such work was done.

(2) The statement shall be filed within thirty days after the completion of the work.

14. Additional work on defective well

(1) Upon receipt of a statement under paragraph 13, the Authority shall determine, either from the statement or from inspection or test, whether the work has been satisfactorily performed.

(2) If the Authority determines that the work has not been satisfactorily performed, it shall by order issue additional instructions specifying the additional work required to place the well in a satisfactory condition, and specifying the time for the completion of such additional work.

(3) Upon the completion of such additional work, a statement sworn or affirmed shall be filed with the Authority as provided for in paragraph 13.

15. Contamination pollution of ground water

Every person abstracting ground water by means of a well shall, in order to prevent contamination or pollution of the water—

- (a) effectively seal off to a sufficient depth any contaminated or polluted surface or shallow water in rock openings or soft broken ground;
- (b) effectively seal the top of the well between the surface casing and the internal pump column, and the suction or discharge pipe;
- (c) dispose of all return or waste water by means other than by return to the well;
- (d) extend the well casing to a point not less than twenty centimetres above the elevation of the finished pump house or pump pit floor;
- (e) use either welded or screw type well joints on the casing, if made of metal;
- (f) dispose of effluents or drainage from any household, stable, factory, trade premises or other premises in such a manner as will prevent any such effluent or drainage from reaching such seal or ground water; and
- (g) carry out such other work as the Authority may by order direct, from time to time, for the prevention of contamination or pollution.

16. Authority may special measure safeguard ground water resource

If—

- (a) during the construction of a well, water is encountered in an aquifer; and
- (b) water from a water table or lower aquifer tends to flow from the upper aquifer to the lower aquifer; and
- (c) in the opinion of the Authority this is likely to prove detrimental to the ground water resources of the area;

the Authority may order what special measures shall be taken by the owner of the well so that the water from the higher aquifer cannot flow to the lower aquifer.

17. Artesian wells cased

Every artesian well and every sub-artesian well shall be efficiently cased, capped or furnished with such appliances as will readily and effectively arrest and prevent the flow therefrom over the surface of the ground or wasting from the well through the strata through which it passes.

18. Offence and penalty

(1) A person who neglects or fails to comply with any order or requirement given or imposed on him by or under this Schedule shall be guilty of an offence and liable on conviction to a penalty not exceeding one hundred thousand shillings.

(2) Liability of any person under this paragraph is in addition to any liability of the person under paragraph 18.

FIFTH SCHEDULE

[Section 84.]

MEMBERSHIP AND PROCEDURE OF THE WATER APPEAL BOARD**1. Term of office**

A member of the Water Appeal Board shall hold office for such term, not exceeding five years, as may be specified in the instrument of his appointment.

2. Terms and conditions of service

The terms and conditions of service of a member of the Water Appeal Board, including the remuneration, travelling and other expenses to which he is entitled, shall be as prescribed by rules made under this Act.

3. Qualification of lay members

In making an appointment to the Water Appeal Board, the Minister shall have regard to the educational qualifications, experience in the water sector, expertise, character and integrity of potential candidates for membership.

4. Vacancy in office of member

(1) The office of a member of the Water Appeal Board shall become vacant if—

- (a) he dies, resigns or is removed from office;
- (b) he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (c) he is adjudged or declared by any competent court or tribunal to be of unsound mind; or
- (d) he is convicted of an offence punishable by imprisonment for 12 months or more.

(2) A member of the Water Appeal Board may be removed from office at any time by the person who appointed him or by any successor in office of that person.

(3) If the office of a member of a board becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

5. Decisions

A decision supported by a majority of the members of the Water Appeal Board shall be the decision of the Board.

6. Record of proceedings

(1) The Chairman shall cause a record of the proceedings of the Board to be made.

(2) Records made for the purposes of this paragraph may be destroyed after the expiry of the period prescribed by rules made by the Minister under this Act.

CHAPTER 372

WATER ACT

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

	<i>Page</i>
1. Water (Plan of Transfer of Water Services) Rules, 2005	75
2. Water Appeal Board Rules, 2007	89
3. Water Resources Management Rules, 2007	109
4. Water (Water Services Levy) Regulations, 2008	243
5. Water (Water Services Board) (Variation of Limits of Supply) Order, 2008	245
6. Tanathi Water Services Board, 2008	247
7. Water (Water Quality Analysis) (Fees) Rules, 2009	249

WATER (PLAN OF TRANSFER OF WATER SERVICES) RULES, 2005

[L.N. 101/2005.]

1. These Rules may be referred to as the Water (Plan of Transfer of Water Services) Rules, 2005, and shall be deemed to have come into operation on the 1st July, 2005.

2. In these Rules—

“**functions**” includes powers and duties;

“**interim water service provider**” means a water service provider appointed for the period ending 30th June, 2006;

“**local authority**” means a local authority within the meaning of the Local Government Act;

“**plan of transfer**” means the plan of transfer within the meaning of section 113 of the Act;

“**transfer date**” means the 1st July, 2005;

“**transferor**” means any person or body of persons any or all of whose functions become, by virtue of any provisions made under these Rules, functions of the water services boards;

“**transferred functions**” means any functions which, by virtue of any provisions made by or under this notice become functions of water services boards;

“**transitional period**” means the period of three years between the commencement of transfer and its completion.

3. The transfer of the functions of the management and operation of water services to the water services boards shall be carried out in accordance with the plan of transfer set out in Schedule.

4. (1) Anything which, on the transfer date, is in the process of being done by or in relation to a transferor in the exercise of or in connection with any of the transferred functions shall continue to be done by or in relation to the transferee.

(2) Anything done by or in relation to a transferor before the transfer date in the exercise of, or otherwise in connection with, any of the transferred functions, shall as far as is required for continuing its effect on and after the transfer date, have effect as if it was done by or in relation to the transferee.

(3) Subrule (2) above shall apply in particular to any—

- (a) decision, determination, declaration, designation, agreement or instrument made by a transferor;
- (b) regulations or by-laws made by a transferor;
- (c) licence, permission, concert, approval, authorisation, exemption, or dispensation of conditions granted by or to a transferor;
- (d) notice, direction or certificate given by or to a transferor;
- (e) application, request, proposal or objection made by or to a transferor;
- (f) condition or requirement imposed by or on transferor;
- (g) fee or charge payable by or to a transferor;
- (h) appeal by or in favour of or against a transferor; or
- (i) proceedings instituted by or against a transferor.

[Subsidiary]

(4) Any reference in the foregoing provisions of this rule to anything done by or in relation to a transferor includes a reference to anything which, by virtue of any enactment, is treated as having been done by or in relation to that transferor.

(5) Any reference to a transferor in any document constituting or relating to anything to which the foregoing provisions of this Rule apply shall so far as is required for giving effect to these provisions, be construed as a reference to the transferee.

5. (1) On the transfer date—

- (a) all rights, powers, and duties, liabilities relating to the provision of water services, whether arising under any written law or otherwise, which immediately before the transfer date were vested in, imposed on or enforceable by or against the Director of Water, the Government or its corporations shall be transferred to and vested in, imposed on or enforceable by or against the water services boards;
- (b) private entities, community-based organisations, or non-Governmental organisations providing water services under previous water undertakership arrangements shall enter into management contracts with water services boards for appointment as water service providers;
- (c) all funds, assets and other property, movable and immovable, which immediately before the transfer date, were held for or on behalf of the Director of Water, the Government or its statutory corporations in the name of the Permanent Secretary to the Treasury, shall vest in the water services boards;
- (d) water services boards shall purchase, lease or otherwise acquire facilities owned by local authorities for provision of water services, on such terms and conditions as the Minister may approve;
- (e) all actions, suits or legal proceedings pending by or against the Government on behalf of the Ministry of Water and Irrigation or against any of its corporations shall be carried on as if they had been instituted by or against the water services boards, and no such action, suit or legal proceedings shall abate or be prejudicially affected by reason of the transfer;
- (f) every public officer having the power or duty to effect or amend any entry in a register relating to property, or to issue or amend any certificate or other document effecting or evidencing title to property and facilities, and being in possession of records evidencing exercise of functions related to the provision of water services under any legislation, shall, without payment of fee or other charge and upon request made by or on behalf of the water services boards, do all such things as are by law necessary to give final effect to the transfer of the property and access to records of functions referred to herein, above and more specifically in the plan of transfer:

Provided that such duty shall be without prejudice to any provision made by any other law in relation to functions of that public officer.

(2) During the transitional period, the officers and servants of the Ministry engaged in the provision of water services shall be deemed to be on secondment to the water services boards for a period of three years after which they shall either—

- (a) enter into written contracts of employment with those boards under section 54(3) of the Act; or
 - (b) be re-deployed in the Public Service.
-

SCHEDULE

[Rule 3.]

PLAN FOR THE TRANSFER AND OPERATION OF WATER SERVICES

Introduction:

The Act became operational on the 18th March 2003, providing the new legal and institutional framework for the management and development of Kenya's water resources as well as the provision of water services. To date all the institutions created by the Act have been set up and are in the process of operationalisation, and their responsibilities are as set out in Table I.

The Act provides the framework for the implementation of new institutional arrangements as follows—

- (i) The Authority shall be responsible for water allocation, source protection and conservation, water quality management and pollution control. Within the country-wide network of the Authority, catchment area committees shall advise on water resources conservation, use and apportionment, adjustment of grants, and cancellation or variation of water permits. The establishment and operation of water users' associations shall be encouraged and facilitated as fora for conflict resolution and co-operative management of water resources in catchment areas.
- (ii) The Regulatory Board shall be responsible for the regulation of water and sewerage services, including licensing, quality assurance, and issuance of guidelines for tariffs and prices and dispute resolution.
- (iii) The water services board shall be responsible for the efficient and economical provision of water and sewerage services within its area of jurisdiction. Seven such boards have been established to cover the entire country. However, direct provision of water services shall be undertaken by water service providers who shall be agents of Water services boards except where the Regulatory Board is satisfied that the procurement of such agents is not possible or that provision of services by such agents is not practicable. The water service providers may be community groups, Non-Governmental Organisations, or autonomous entities established by local authorities or other persons.
- (iv) The Water Services Trust Fund shall assist in financing the provision of water services to areas without adequate water services. Trustees appointed and holding office under a Trust Deed prepared by the Minister shall manage the Fund.
- (v) The Water Appeals Board shall be responsible for the determination of appeals and disputes. The decision of this board shall be final, except in matters of law whereby an appeal shall lie to the High Court.
- (vi) The Ministry shall focus on policy development, sector coordination, monitoring and supervision to ensure equitable and effective water and sewerage services in the country, sustainability of water resources and development of water resources for irrigation, commercial, industrial, power generation and other uses.

Provision of services shall only be undertaken under the authority of a licence issued by the Regulatory Board to a water services board which in turn, shall contract a water service provider to provide services to consumers. Provision of water services shall involve two national institutions, the Regulatory Board and the Water Services Trust Fund, and the seven regional water services boards indicated in Table 2.

Responsibility for provision of water services is vested in the water services boards which are required to arrange for the efficient and economical provision of services in accordance with the national water services strategy and under the regulation of the Regulatory Board.

Water

[Subsidiary]

SCHEDULE—*continued*

TABLE 1 – RESPONSIBILITIES OF INSTITUTIONS ESTABLISHED UNDER THE ACT:

<i>Institution</i>	<i>Responsibilities</i>
Water Services Management Authority	Implementation of policies and strategies relating to management of water resources. Development of catchment level management strategies, including appointment of catchment area advisory committees and their facilitation.
Water Services Regulatory Board	Overseeing the implementation of policies and strategies relating to provision of water services. Regulating the provision of water supply and sewerage services. Licensing water services boards and approving their appointed water service providers. Monitoring the performance of water services boards and water service providers.
Water services boards	Planning for improvement in provision of water supply and sewerage services. Appointment and contracting water service providers. Asset holder of central government facilities.
Water Services Trust Fund	Assisting in the financing of provision water supplies in areas that are inadequately provided for.
Water Appeals Board	Adjudicating disputes between sector players.

TABLE 2 – WATER SERVICES BOARDS

<i>Name of Board</i>	<i>Districts</i>
Coast Water Services Board	Kilifi, Kwale, Lamu, Mombasa, Taita/Taveta, Tana River, Bura.
Athi Water Services Board	Kajiado, Machakos, Kiambu, Thika, Makeni, Nairobi.
Tana Water Services Board	Kirinyaga, Muranga, Nyeri, Embu, Mbeere, Kitui, Meru Central, Tharaka, Meru South, Meru North, Mwingi, Maragua.
Rift Valley Water Services Board	Nakuru, Narok, Baringo, Keiyo, West Pokot, Turkana, Koibatek, Nyandarua.
Northern Water Services Board	Garissa, Ijara, Mandera, Wajir, Isiolo, Marsabit, Moyale, Laikipia, Samburu.
Lake Victoria North Water Services Board	Bungoma, Busia, Kakamega, Vihiga, Mt. Elgon, Lugari/Malava, Teso, Butere/Mumias, Uasin Gishu, Nandi North, Trans Nzoia, Marakwet.
Lake Victoria South Water Services Board	Kisii Central, Gucha, Kisumu, Nyando, Siaya, Bondo, Homabay, Nyamira, Migori, Kuria, Suba, Rachuonyo, Kericho, Buret, TransMara, Bomet, Nandi South.

PART I – THE PLAN OF TRANSFER

I.A *Policy Principles and Service Delivery Institutional Framework:*

(1) Provision of water services shall only be undertaken through the authority of a licence. (s. 56)

(2) The licence to provide water services shall be issued by the Regulatory Board, to water services boards. (s. 57)

SCHEDULE—*continued*

(3) The Water services boards, in turn, shall provide the licensed services through a contracted agent, the water service provider. (s. 55(1))

(4) The Minister in charge of water shall be responsible for the development, *gazettement* and continuous review of a national water services strategy. (s. 49)

(5) The transfer shall conform to all the requirements of the Act, in respect of the provision of water services and especially to the functions of the water service boards as stipulated in section 53.

I.B *The Subject of Transfer:*

Section 113(1) directs that the Transfer of Water Services Plan include management and operation of water services, *viz.*—

- (a) Taking over by Water Service Boards, of the overall administrative and legal responsibility for provision of water services previously vested with the Department of Water in the Ministry, (s. 113(2)(a)), except the direct operation of facilities, which is a function reserved for water service providers;
- (b) transferring ownership of facilities owned or used by Central Government and its parastatals, with or without liabilities, to Water Service Boards; (s. 113(2)(b));
- (c) providing a framework through which water services board can enter into suitable arrangements for accessing water services facilities owned or used by local government water service providers; (s. 113(2)(c));
- (d) providing a framework that will enable water services board to influence the use of water services facilities owned or used by Non-Governmental Organisations, Community Based Organisations or community self-help groups. (s. 113(2)(c)).

I.B.1 Transfer by the Ministry of overall administrative and legal responsibility for provision of water services to the water services boards.

This responsibility includes—

- (a) ensuring that provision of services is efficient and economical;
- (b) planning development of services and facilities to progressively increase access to services;
- (c) ensuring that assets or facilities it owns or has leased are properly maintained;
- (d) ensuring that water service providers maintain standards and guidelines set by the Regulatory Board;
- (e) assuming responsibilities of a water service provider of last resort in the absence of a water service provider.

I.B.2 Transfer of ownership of Government-owned water services facilities to the water service board.

This ownership transfer encompasses—

- (a) fixed assets (land and buildings);
- (b) system facilities and plant;
- (c) operational assets, equipment, books and records; and
- (d) agreed liabilities and accounts receivable in accordance with the transfer agreement.

[Subsidiary]

SCHEDULE—*continued*

The ownership transfer will commence with those facilities owned or used by the Ministry of Water and Irrigation and National Water Conservation and Pipeline Corporation before moving on to facilities owned or used by other Central Government Ministries, Departments or parastatals.

I.B.3 Providing a framework through which a water services board can enter into suitable arrangements with local authorities for accessing facilities owned or used by local government service providers.

The framework encompasses—

- (a) recognition of partnership between a local authority and the water services board in the provision of water supply and sewerage services;
- (b) specification of the access a water services board will require in relation to a system owned by a local authority;
- (c) agreement on the terms and conditions of water services board accessing system facilities owned by local authorities and specification of instruments for such access, including purchase, lease, acquisition or any other legal arrangement under section 53(3);
- (d) creation by local authorities, of autonomous legal entities for provision of water supply and sewerage services in compliance with section 57(5)(e);
- (e) terms and conditions of appointment of such autonomous entities as water service providers;
- (f) terms and conditions of new investments within and among the system facilities owned or used by a local authority.

I.B.4 Providing a framework which enables a water service board to influence the use of facilities owned or used by Non-Governmental Organisations, Community Based Organisations, self-help groups and small-scale water services providers.

This framework shall be flexible to suit the different circumstances obtaining in different water services board areas and shall include—

- (a) recognition of the role being played by community, self-help groups, community based organisations and Non-Governmental Organisations in the provision of supply and sanitation services;
- (b) engagement of these non-governmental initiatives into the development plans of the water services board;
- (c) continuation of the ownership and management of such facilities by their owners;
- (d) encouraging the separation of asset ownership and provision of services in these schemes that is the organisations employing professional management for operations and maintenance in compliance with section 57(5)(e);
- (e) maintenance, by such organisations, of proper accounts and records relating to provision of water services;
- (f) encouragement of such organisations and groups to continue investing in the development of facilities through water services board-approved development plans;
- (g) terms and conditions for adoption of management improvement programmes in service provision and in the maintenance of facilities, including management of demand and provision of resources for system renewal;
- (h) terms and conditions of undertaking additional infrastructural investment.

SCHEDULE—*continued*

PART II – THE PROCESS OF TRANSFER

II.A *Policy Principles on Time-Frame for Transfer.*

1. Section 113(1) directs that as soon as reasonably practicable after commencement of Part I of the Act the process of transfer shall commence with the development and *gazettement* of the transfer plan.

2. The Act commenced on 18th March, 2003 and the transfer shall be completed by 30th June, 2006, after which date Ministry and the National Water Conservation and Pipeline Corporation shall no longer be operating or maintaining any water supply and sewerage service except as may be required by section 67(2).

3. The transfer shall be as smooth as practically possible and disruptions and interruptions to existing services shall be held at a minimum.

4. Commencement of this transfer plan shall also mean suitable changes to the conditional licences already issued to water services boards by the Regulatory Board.

5. Detailed implementation and actualisation of the various components of the transfer will be effected during the period, 1st July 2005 to 30th June, 2008.

6. During the period ending on 30th June, 2006, water service boards shall retain, but where necessary reinforce on secondment existing scheme level staff in the provision of services, after which period and with the approval of the Regulatory Board, appoint a suitable water service provider. Whenever a water service board wishes to appoint a water service provider it shall do so with concurrence of the Regulatory Board.

7. Local authorities providing water services under previous water undertakership arrangements shall be required to comply with the provisions of sections 55(1) and 57 within 6 months of the coming into force of this transfer plan.

8. The Ministry, acting on behalf of water services boards, shall negotiate with other Government Ministries, departments and parastatals, for the transfer of ownership to water services boards of system facilities that they own or use for provision of water and sewerage services in compliance with section 113(2)(b).

II.B *The Schedule of Transfer:*

The following are the critical dates and milestones for the transfer—

TABLE 3 – TRANSFER ROAD MAP

<i>Activity</i>	<i>Commencement Date</i>	<i>Completion Date</i>
Transfer	1st July, 2005	30th June, 2006
Execution of transfer agreements.	5th March, 2005	30th June, 2006
Supportive activities	1st January, 2005	Continuous
Identification and engagement of successor water service providers.	1st July, 2005	30th June, 2008

II.C *The Transferee and the Transferor:*

1. The water services board is the transferee; the Ministry and the National Water Conservation and Pipeline Corporation are the initial transferors while other Government Ministries, Departments and corporations are subsequent transferors.

2. Where the system facilities and services cross water services board boundaries, the transfer will be to one of the water services boards and appropriate arrangements made for the other affected water services boards to access the use of the facilities.

[Subsidiary]

SCHEDULE—*continued*II.D *The Transfer Agreement:*

The transfers described will be affected by means of a legally binding agreement between Ministry, the National Water Conservation and Pipeline Corporation scheme-level establishments including their support structures and the relevant water services boards. The purpose of the transfer agreement is to—

- (a) impose, the legal responsibility for service provision on the appropriate institution;
- (b) define transitional matters, their effectiveness, and period of validity;
- (c) describe the system facilities, assets, liabilities, receivables, personnel and any other aspect that will be transferred;
- (d) outline the supportive activities, milestones and mutual obligations through which the transfer shall be actualised to completion by 30th June 2008 or earlier as the water services board may wish;
- (e) define the circumstances, terms and conditions under which the Ministry and the National Water Conservation and Pipeline Corporation scheme-level staff shall be retained on secondment for the period ending on the 30th June, 2006;
- (f) define, describe and specify financial arrangements for ensuring that provision of services is on sustainable, sound business and commercial basis as required by section 57(5)(d) and the entire spirit of reforms.

PART III – SUPPORTIVE ACTIVITIES TO THE TRANSFER PROCESS

To actualise and make effective the transfers, many activities have been undertaken in the past and many more will be carried out in the future. Key among these are—

- (a) implementation of the transitory clauses in the transfer agreement;
- (b) undertaking key studies for informing and actualising the transfer;
- (c) structuring and re-organising the current Ministry and National Water Conservation and Pipeline Corporation structures for service provision by water service providers;
- (d) identification and recruitment of water service providers;
- (e) capacity building and training of Water Services Boards and water service providers;
- (f) finalising contractual and financial arrangements;
- (g) limited rectification of facilities and systems owned by Water Services Boards to operational status; and
- (h) arrangements for the provision of adequate and suitably qualified staff through recruitment.

III.A *Implementation of the Transitory Clauses in the Transfer Agreement*

Each transfer agreement shall contain a plan for completing the transfer by the 30th June, 2008. The Ministry shall assist each water services board to prepare the plan. The plan shall, among other considerations, give a broad framework specifying various transitional arrangements in respect to legal continuity, continued provision of services, staffing, finalisation of ongoing contracts and incoming of new provisions and arrangements. Central to these transitional arrangements are—

- (a) appointment of all water service providers, including Ministry and National Water Conservation and Pipeline Corporation scheme-level staff on secondment as the water service boards may require;

SCHEDULE—*continued*

- (b) retention, on secondment, of Ministry and National Water Conservation and Pipeline Corporation staff at existing terms of service for the period ending on the 30th June, 2006;
- (c) continuation of Ministry funding of operation and maintenance (including staff) costs for the duration of the interim water service provider status;
- (d) provision of adequate financial resources to meet non-staff operation and maintenance costs while taking into account revenues (billings and collections); and
- (e) continuation of existing consumer agreements and customer accounts.

III.B *Undertaking Key Studies*

The Water Services Boards in conjunction with the Ministry shall carry out detailed studies in respect to—

- (a) rapid situational assessment of water supplies and sewerage services at each water services board area providing—
 - (i) data and information pertaining to the overall water supply and sewerage services situation;
 - (ii) a broad inventory of all facilities; and
 - (iii) a listing of all current water service providers;
- (b) organisation and development study of Water Services Boards. Substantial institutional and organisational restructuring will be required and this study shall identify the institutional, structural and operational requirements including quality and quantitative staffing levels, of the transferred delivery system consisting of the Water Services Board and water service providers;
- (c) detailed assessment of schemes, services and facilities. Detailed technical, financial and service performance assessment shall be undertaken on each water service—
 - (i) whose ownership has been transferred from the Ministry or the National Water Conservation and Pipeline Corporation to the Water Services Board;
 - (ii) owned by a local authority, providing technical, financial and social appraisals and estimated investment requirements for the next ten years;
- (d) financial and economics study. Each water services board shall, with the assistance of the Ministry, commission a study to examine the financial and economic prospects and implications of providing water supply and sewerage services to its residents;
- (e) development plan for new schemes and expansion of existing ones. This will be a ten-year plan geared towards reaching areas not currently served and shall be inclusive of a funded and time-bound action programme taking into account Water Services Trust Fund-funded and new Community-based Organisation schemes. Its focus shall be unserved areas and shall include any and all available technologies.

III.C *Structuring Monitoring and Supervisory Set-up for the New Service Delivery System*

The current Ministry and National Water Conservation and Pipeline Corporation organisational set-ups and structures consist of—

- (a) water services sections at the Ministry's provincial and district offices;

[Subsidiary]

SCHEDULE—*continued*

- (b) National Water Conservation and Pipeline Corporation regional and scheme offices; and
- (c) numerous scheme offices as well as scheme committees at community and self-help water supplies and projects.

During the period ending on the 30th June, 2006 the water service boards shall take over all the relevant seconded staff for monitoring.

III.D *Identification and Recruitment of Water Service Providers*

The rapid situational assessment of water supply and sewerage services, already has compiled a list of all water supply and sewerage services and their corresponding water service providers. Water services board shall require each water service provider to be registered and shall open a register of water service providers containing relevant information.

The water services boards shall, additionally, open a register of water service providers appointed for the period ending on the 30th June, 2006.

During the period ending 31st December, 2007, the water services board shall identify and enter into negotiations with water service providers for each of the water supply and sewerage services and facilities within its area of jurisdiction. These negotiations shall be concluded as agreements by 31st March, 2008. Nothing in this transfer plan shall prevent the water services boards concluding the negotiations earlier than the stated period.

Enhancement of the capacities of the new water service providers who may need it shall be provided through specialised courses.

III.E *Capacity Building and Training of Water Services Boards and Water Service Providers*

To be effective the transfers shall require substantial training and capacity building to provide capacities to the new water services boards and the water service providers. Training of interim water service providers and their staff will be undertaken to ensure that the transition period introduces features of the new delivery system, especially its commercial nature.

III.F *Contractual and Financial Arrangements*

Already some agreements for appointing water service providers have been developed but, it is expected that refinements will continue to be made. Two basic model agreements will be particularly pertinent—

1. Agreement relating to appointment of a water service provider using Water Service Board-owned facilities. This agreement shall among other matters, address—

- (a) conditions for maintaining, and expansion of facilities; and
- (b) service, financial, revenue, technical performance indicators.

2. Agreement relating to appointment of a water service provider where facilities are not owned by the water services board. Such an agreement shall, among other matters, address—

- (a) conditions on improvement of services;
- (b) conditions on improvements in technical operation and maintenance;
- (c) conditions on water demand management, including pricing and tariffs;
- (d) accounting and auditing of the financial state of the service; and
- (e) service, financial, revenue, technical performance indicators.

SCHEDULE—*continued*III.G *Rehabilitation of Transferred Water Services*

Each of the systems owned or managed by the Water Services Boards shall be rectified to operational status by 31st December, 2006.

III.H *Provisions relating to Staffing of the New Delivery System**Policy Principles—*

- (a) Provision of water services shall be adequately and appropriately staffed as per the standards set by the Regulatory Board.
- (b) For this reason, current employees of the Ministry and the National Water Conservation and Pipeline Corporation engaged in supervision and direct provision of water supply and sewerage services shall be retained on secondment to water service boards for the period up to 30th June, 2006, or earlier whenever a water services provider is appointed without prejudice to their pensions and other retirement benefits to which they are entitled under the relevant written law.
- (c) Thereafter, engagement of personnel shall be carried out by the respective institutions in accordance with their own requirements.

Staff Arrangements for the transition:

The new service delivery system has separated the ownership of public water supply and sewerage infrastructure and assets by Water Services Board and direct provision of services by water service providers that are expected to operate on the basis of sound business principles. There is already an established service delivery system staffed by employees engaged by the Ministry of Water and Irrigation, the National Water Conservation and Pipeline Corporation and various local authorities. Reform in the existing service delivery system shall affect directly the employment of these officers, who will be engaged by the water service providers as the latter take over their responsibility. Suitable arrangements shall be made to ensure that the sub-sector is staffed by competent personnel during the transition and subsequent periods as follows—

- (i) Ministry of Water and Irrigation and National Water Conservation and Pipeline Corporation and local authority employees shall be retained on secondment for the period ending 30th June, 2006;
- (ii) by 30th June, 2006 Water Services Boards shall have refined their organisational charts, structures and determined their direct staffing needs, that is expected to guide their personnel policies;
- (iii) water service providers shall be responsible for their own personnel policies within the guidelines provided by the Water Services Regulatory Board.

PART IV – FINANCIAL FRAMEWORK AND ARRANGEMENTS

IV.A *Policy Principles on Financial Arrangements for the Transfer*

The transfer process will meet the following types of financial requirements, namely—

- (a) once-off costs;
- (b) necessary operational costs during the period up to 30th June, 2008;
- (c) water operations stabilisation costs up to 30th June, 2009; and
- (d) staff rationalisation costs.

1. Once-off costs for the transfer will be met by the Ministry of Water and Irrigation.

[Subsidiary]

SCHEDULE—*continued*

2. The Water Services Boards and the service providers shall become financially self-sustaining in terms of operation and maintenance not later than the 30th June, 2009.

3. Liabilities shall be negotiated on a case-by-case basis and agreement noted in the Transfer Agreement.

4. During the period up to the 30th June, 2008 the Government shall bear the full costs of operating and maintaining water services board-owned services in accordance with present arrangements which take into account appropriations-in-aid from each area. However, full disclosure of the recurrent and development budgets shall be made to Water Services Boards and district water officers shall avail copies of progress reports on budget implementation to those Boards. For this purpose the monitoring and evaluation section of the Water Services Board shall be set up.

Where a water service provider is appointed earlier than June, 2006, that provider shall take over from the Government the financing of operation and maintenance costs.

The Ministry shall meet the costs of personnel emoluments during the transitional period.

5. The Ministry of Water shall continue to raise resources for the sector, including through allocations approved by the Ministry of Finance. From the 2006/2007 financial year a major transformation in the mode of budgeting shall be made to make the Water Services Board the budget unit by aggregating district action plans into a Water Services Board action plan.

6. The allocations from the Ministry of Water and Irrigation to the Water Services Boards for operation and maintenance activities shall take into account the projected appropriations-in-aid for each Water Services Board such that Water Services Boards only receive the net Government allocation.

7. The Water Services Boards will be encouraged to support self-help schemes technically and in this regard all support from the Water Services Trust Fund shall be made known to the Water Services Board to enable the Water Services Board to monitor utilisation.

During the 2006/2007, 2007/2008 and 2008/2009 financial years and anticipated improvements in financial performance especially in revenue collection, the Ministry will provide operation and maintenance assistance upon request and justification by those Boards.

IV.B *Financial Arrangements for one-off Transfer Costs*

The Ministry will meet the costs of all once-off transfer activities, through budgetary allocations from the Ministry of Finance.

IV.C *Water Services Operation and Maintenance Support*

There are two kinds of support that are envisaged, namely—

1. Support to meet operation and maintenance costs for the period ending 30th June, 2006.

Policy Principles—

- (a) Support will be similar to the current operation and maintenance budget, taking into account revenue from schemes;
 - (b) the water service providers appointed for the period ending 30th June, 2006, will be accountable to the Water Services Boards.
2. Support to stabilise operation and maintenance within schemes owned by the Water Services Board during the initial three-year period of assumption of full responsibilities.

SCHEDULE—*continued*

Policy Principles—

- (a) The amount of support will be based on the operation and maintenance costs to run the facilities previously owned by the Ministry of Water and Irrigation and the National Water Conservation and Pipeline Corporation and will take into account the revenue generated by the Water Service Boards;
 - (b) the amount of support shall be paid directly to the Water Services Boards to cover operation and maintenance costs of the services taken over from the Ministry and the National Water Conservation and Pipeline Corporation, including staff costs;
 - (c) support will be for a fixed three-year term commencing 1st July, 2006 and ending on 30th June, 2009;
 - (d) the amount of support will be released upon justifiable request by Water Services Boards and will be based on the Government policy on support to its corporations.
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WATER APPEAL BOARD RULES, 2007

ARRANGEMENT OF RULES

Rule

1. Citation.
2. Interpretation.
3. Period of appeal.
4. Language of record and business of the Board.
5. Appearances and representation.
6. Filing and service procedure.
7. Pleadings generally.
8. Objections.
9. Response to appeal.
10. Contents of appeal.
11. Appeals for water use.
12. Guidelines in appeals for water use.
13. Guidelines in respect of ground water.
14. Notice of transfer of water rights and change of address.
15. Appeals on water services.
16. Amendment of pleadings.
17. Close of pleadings.
18. Withdrawal of appeal or other pleading.
19. Referral to parties on pleadings.
20. Exhibits.
21. Interlocutory matters and orders.
22. Pre-trial procedure, and case management.
23. Summons and evidence.
24. Notice of hearing.
25. Quorum of the Board.
26. Determination of appeal on documents only.
27. Hearing of appeal in the absence of either of the parties.
28. Consolidation of appeals and applications.
29. Hearing and determination of the appeal.
30. Close of hearing.
31. Submissions.
32. Decision of the Board.
33. Record of proceedings and decision.
34. Decree and enforcement.
35. Reference for clarification.
36. Seal of the Board.
37. Appeal on matters of law.
38. Waiver.
39. Contempt provisions.

Water

[Subsidiary]

SCHEDULES

- FIRST SCHEDULE – FILING FEES
 - SECOND SCHEDULE – CATEGORIES OF QUALIFIED PROFESSIONALS TO ACT AS AGENTS
 - THIRD SCHEDULE – FORMS
-

WATER APPEAL BOARD RULES, 2007

[L.N. 144/2007.]

1. Citation

These Rules may be cited as the Water Appeal Board Rules, 2007.

2. Interpretation

In these Rules, unless the context otherwise requires—

“**Act**” means the Water Act (Cap. 21);

“**appeal**” means any application made to the Board pursuant to the relevant sections of the Act;

“**appellant**” means the party who initiates an appeal;

“**applicant**” means the party who files an application with the Board;

“**application**” means any matter or pleading lodged with the Board in an appeal with respect to any dispute arising under the Act;

“**Board**” means the Water Appeal Board established under section 84 of the Act;

“**Chairman**” means the Chairman of the Board appointed under section 84(2)(a) of the Act;

“**member**” means a member of the Board appointed under section 84(2)(a) of the Act;

“**notice**” means a written notice, and “**notify**” means to give a written notice;

“**officer**” means an employee of the Board designated to provide administrative support to the Board;

“**party**” means a person or corporate body directly involved or affected by an appeal;

“**pleading**” includes an appeal, response to appeal, cross appeal, counter-claim, and objection to appeal and application;

“**prescribed form**” means the appropriate form as set out in the Third Schedule;

“**registry**” means an office designated by the Board for the filing of pleadings under these Rules;

“**respondent**” means any person whose decision is appealed against or who responds to pleadings;

“**return of service**” means a return of service within the meaning of the Civil Procedure Rules;

“**summons**” means a notice requesting a party or witness to appear before the Board.

3. Period of appeal

(1) An aggrieved person shall file an appeal with the Board within the time specified for such appeals under the Act.

(2) Where no period of appeal is specified as contemplated under paragraph (1), an appeal shall be filed within a period of thirty days from the date on which the decision appealed against was notified to the applicant.

[Subsidiary]

4. Language of record and business of the Board

(1) The language of record of the business of the Board shall be English and Kiswahili.

(2) Any person appearing before the Board shall be entitled to make representations in any language of his choice.

(3) Where the language used under paragraph (2) is neither English nor Kiswahili, such person shall notify the Board accordingly at least seven days before the hearing of the appeal, and the Board shall upon receipt of such notice arrange to avail an interpreter during the hearing.

(4) All documents forwarded to the Board under these Rules shall be filed with the Board.

(5) There shall be paid in respect of all documents filed with the Board the fees specified in the First Schedule.

5. Appearances and representation

(1) A party shall appear before the Board in person or through a recognised agent of his choice authorised by him in writing.

(2) A person shall be a recognised agent if he possesses any of the qualifications set out in the Second Schedule, or such other qualifications as may be recognised by the Board.

(3) No member or employee of the Board shall give any advice to any party or give any recommendations regarding recognised agents for purposes of representation before the Board, but may give advice on procedure and any similar issue pertaining to these Rules.

6. Filing and service procedure

(1) An applicant shall file an original and three copies of his pleadings under these Rules by depositing them in the Board's registry and paying the required fees.

(2) An applicant shall indicate both his physical and mailing address on all pleadings filed.

(3) All pleadings shall at the time of filing under these Rules be allocated with appeal numbers.

(4) Where a party intends to file one document in more than one appeal, such party shall submit a sufficient number of copies for each appeal.

(5) After the filing and numbering of an appeal as set out in the foregoing provisions the same shall be served on the respondents indicated thereon with an accompanying summons.

(6) The summons and the certificate of the return of service shall be in a form prescribed by the Board, and both shall be completed in respect of each service.

(7) A return of service shall be accompanied by an acknowledgement of receipt signed by the respondent or the person accepting service on his behalf.

(8) Where service of process under these Rules is effected through the post the return of service shall be accompanied by the certificate of mailing.

(9) The Board may effect service on behalf of an applicant upon written request in the prescribed form by such applicant and payment of the prescribed fees.

[Subsidiary]

(10) Service on corporate bodies shall be effected in accordance with section 99 of the Act.

7. Pleadings generally

For purposes of procedure and reference, a statement of appeal shall be considered to be an appeal, and a reply thereto to be a response or other pleading as the case may be.

8. Objections

A respondent may in writing object to an appeal, stating the grounds of objection.

9. Response to appeal

(1) A respondent intending to file a response shall file the same within a period of thirty days from the date of service of the appeal.

(2) If the period of thirty days as prescribed in paragraph (1) passes before a respondent files a response, the respondent shall be deemed to have accepted the filed pleadings and documents.

10. Contents of appeal

(1) An appeal filed under these Rules shall be in the appropriate form as specified in the Third Schedule, and shall set forth—

- (a) the name, physical and mailing address and full particulars of the appellant;
- (b) the name, physical and mailing address and full description of the respondent;
- (c) the name, physical and mailing address of any other party involved in the appeal;
- (d) the facts and grounds for such appeal or application, specifying the issues which are alleged to have been wrongly decided, and the nature of the decision for which it is proposed to pray to the Board;
- (e) the grounds of appeal; and
- (f) any principle of policy, law or water management procedure that is relied upon in the appeal.

(2) An appeal shall be accompanied by copies of all the documents relating thereto.

(3) The Board may decline to hear an appeal which is not filed in the prescribed form.

11. Appeals for water use

(1) The Board shall maintain separate filing systems for appeals in respect of water use and appropriation in water resources management.

(2) An appeal may be made concerning more than one water use right, claim or structure:

Provided that such appeal shall give all the required information regarding every water use right, claim or structure, and that each such claim shall be made by the same appellant.

12. Guidelines in appeals for water use

The following guidelines shall apply in filing appeals in respect of water use rights—

- (a) every appeal shall specify the kind of water use activity and permit, if any, in respect of which the appeal is made;

[Subsidiary]

- (b) every appeal shall give the legal description of the area and location in terms of the relevant catchment basin, the point of diversion of the water and the point of storage, if any, of the water the right in respect of which is the subject of the appeal, and a general description of the place of use;
- (c) in areas having generally recognised names, the land reference number, the title number and the name and street address or block number of the property where the water use activity is shall be set forth in the appeal in addition to the geographical description, the point of diversion or place of storage;
- (d) every appeal shall state the name and address of the owner or reputed owner of the land upon which any structure is or shall be located, upon which water is or shall be placed for beneficial use.

13. Guidelines in respect of ground water

An appeal for the determination of matters related to ground water rights shall be governed by the following additional requirements—

- (a) the appeal shall describe each well, using the well permit registration or recording number if any, issued under the Act;
- (b) where a permit has been issued, copies of the permit, authorisation and borehole completion records shall be attached to the appeal;
- (c) if a permit as specified in (b) above is denied, a copy of the order of denial containing the denial number shall be attached at the time of filing the appeal, or supplied as soon as possible thereafter;
- (d) if the name of the appellant is not the same as the name appearing on the water permit or authorisation, then *prima facie* evidence of ownership of the well site shall be submitted to the Board, with copies of the title deed of the land where the appellant owns the land, or a letter of no objection from the owner of the land where the user is not the owner of the land.

14. Notice of transfer of water rights and change of address

(1) Upon the sale or other transfer of a conditional water right a dispute in respect of which is pending before the Board, the transferee shall file with the Board a notice of transfer which shall state—

- (a) the number of the appeal;
- (b) the description of the conditional water right transferred;
- (c) the name of the transferor;
- (d) the name and mailing address of the transferee; and
- (e) a copy of the transfer document and title deed to the land.

(2) The Board shall cause the appropriate changes in the records relating to the appeal to which such changes relate to be made.

15. Appeals on water services

(1) There shall be a separate filing system for water services appeals.

(2) Every appeal shall include a description of the area and location of the service under dispute, and the Water Services Board responsible for the area or its agent.

(3) If a licence required by law has been issued by the Regulatory Board or an agreement appointing an agent as a water services provider, copies of the licence and agreement shall be provided in the appeal.

(4) If the water service provider permission or licence was denied, a copy of the order of denial containing the denial number if any, shall be attached.

(5) Any documentation required under this Rule but not available at the time of filing of the appeal, shall be supplied as soon as practicable or as shall be directed by the Board.

(6) An appeal shall also be accompanied by a copy decision appealed against.

16. Amendment of pleadings

(1) Parties may amend their pleadings without leave of the Board within twenty-one days of filing of the same by presenting them at the Registry and clearly marking them 'Amended':

Provided that parties may amend their pleadings after the expiry of that period with leave of the Board based on exceptional circumstances which the Board is satisfied are likely to affect the ends of justice.

(2) When an appeal is amended, or an application for correction or clarification of a decision is filed, re-issue of the same by the Board shall be done at the expense of the party so amending.

(3) All amended pleadings shall be served on parties and the parties served shall have twenty-one (21) days from the date of service to make response thereto.

(4) The Board may upon application to it based on special circumstances, extend the period for response to amended pleadings.

(5) Any party who does not wish to file a response to an amended pleading may file a letter with the Board upon service of the amended pleading, stating that there is no objection to the amendment.

17. Close of pleadings

Pleadings shall be closed after the expiry of the period provided for filing.

18. Withdrawal of appeal or other pleading

(1) An appeal against which no response or other application has been filed may be withdrawn upon written notice to the Board.

(2) An appeal against which a response has been filed shall not be withdrawn or dismissed except by consent of both parties and an order made by the Board.

(3) A response or other pleading may be withdrawn without order of the Board if the party opposing files a withdrawal notice certifying that the appellant has consented to the withdrawal:

Provided that in the absence of the consent of the appellant, the withdrawal shall be subject to approval by the Board.

19. Referral to parties on pleadings

(1) If a pleading is incomplete, or some supporting documentation is not filed or some further information is necessary for the disposition of the appeal, the Chairman may direct the party to supply the required information in writing, by affidavit, or at a mention or hearing with the full knowledge of the other party to the appeal.

(2) The Chairman's direction shall set forth the particulars regarding additional documentation, discovery and inspection of documents.

20. Exhibits

All exhibits offered in evidence shall be marked for identification at the filing thereof or during the trial, and shall remain in the custody of the Board as designated by the Chairman.

[Subsidiary]

21. Interlocutory matters and orders

(1) The Board may issue an interlocutory order upon application by any of the parties.

(2) Interlocutory matters, determination of category and section under which an appeal lies as stipulated by these Rules and confirmation that procedures have been compiled with by the applicants, expert witnesses, summons and notices of hearing, calendar, time and place of hearing shall be determined by the Board.

(3) The Chairman and one other member of the Board may hear objections and any interlocutory applications on behalf of the Board.

22. Pre-trial procedure and case management

(1) Unless the Board directs otherwise, the period for requesting interlocutory orders based on discovery and inspection shall be not later than thirty days after parties have filed their pleadings.

(2) In all appeals, the Board shall encourage informal discovery and inspection between parties, including discussions, disclosure of facts, documents, expert witnesses, and other material information, field inspections and other reviews, prior to the hearing thereof.

(3) The time for providing mandatory disclosure shall be at least fifteen days before the hearing of the appeal and after the filing of pleadings.

(4) The time periods for disclosure of expert testimony shall, in all appeals, be at least fifteen days before the hearing of the appeal and after disclosure and discovery is complete.

(5) In circumstances where as a result of identification of witnesses and discovery and inspection of documents within the time frame for such identification set forth in these Rules is insufficient to allow responsive discovery or supplementation by an opposing party, the Board shall give its approval for the modification of the period.

(6) The Board may on its own motion and if it deems fit for the ends of justice serve the appeal on any other party whom it is satisfied may be interested in the matter being considered.

(7) The Board may summon any person and seek expert opinion for the purpose of an examination of facts and full adjudication of any dispute.

(8) A party may request that a particular expert, if any, who took part in and is conversant with particulars of any disputed decision makes representative in writing or be called upon to attend the hearing of the appeal and give evidence.

(9) An applicant shall file and serve upon all parties at least fifteen days prior to hearing of any application before the Board, a summary of facts and findings of discovery and inspection and proposed order that sets forth any necessary findings, terms or conditions that the applicant reasonably believes the Board should incorporate in the decision.

(10) For the purposes of simplifying the exchange of documents and the hearing and determination process, the Board may make service of pleadings and documents.

(11) The Board shall encourage parties to disputes to enter into conciliation, negotiations and agreement and to file the same with the Board at any time before the hearing.

23. Summons and evidence

(1) The Board may summon for questioning—

- (a) any person who may be able to give information relevant to any of the issues; or
- (b) any person who is believed to have possession or control of any book, document or object relevant to any issue, to appear before the Board and to produce that book, document or other object.

(2) Summons shall be signed by the Chairman and shall—

- (a) specifically require the person named therein to appear before the Board;
- (b) state the date, time and place at which the person must appear; and
- (c) sufficiently identify any book, document or object required to be produced by that person.

(3) The party at whose request summons was issued shall pay witness fees, and travel and subsistence allowances to a person summoned to appear before the Board at a reasonable rate determined by the Board.

(4) The Board may administer an oath or accept an affirmation from any person called or summoned to give evidence before it.

24. Notice of hearing

The Chairman shall with due regard to the convenience of all parties, fix the date, time and place of the oral hearing, and, not less than twenty-one days before the date so fixed, cause to be sent to each party a notice of hearing on such date, time and place.

25. Quorum of the Board

- (1) The quorum of the Board at the hearing of the appeal shall be three members.
- (2) The Chairman shall preside at the hearing of the appeal.

26. Determination of appeal on documents only

(1) Where no oral evidence is required and subject to the agreement of all parties, the Board shall proceed to determine the appeal and any application before it based on the pleadings and documents filed and determine the appeal or any other application on documentary evidence only.

27. Hearing of appeal in the absence of either of the parties

Where a notice of hearing is served on the parties, the Board may hear an appeal or application in the absence of any party thereto if—

- (a) such party has indicated that he does not wish to avail himself for the hearing;
- (b) such party fails to appear for the hearing without providing any reasons; or
- (c) the Board is satisfied that the reasons forwarded to it by such party are not of such a nature as to prevent his attendance.

28. Consolidation of appeals and applications

If it appears to the Board that in any number of appeals or applications—

- (a) some common question of fact or law arises; or
- (b) it is practical and appropriate to proceed with the issues raised in the appeals or applications simultaneously,

the board may decide that which appeals or applications be consolidated.

[Subsidiary]

29. Hearing and determination of the appeal

(1) The Chairman shall give such directions as may be necessary to enable the parties to prepare for the hearing.

(2) At the beginning of an open hearing the Chairman shall explain the order of the proceedings which the Board proposes to adopt.

(3) The Board may conduct proceedings as in a commission of inquiry and shall not be bound by rules of evidence under the Evidence Act, provided the appellant shall be given the first opportunity to present the appeal.

(4) Evidence before the Board may be given orally or if the Chairman so orders, by affidavit or written statement. However the Board may at any stage require the attendance of any deponent or author of a written statement if so required for the purposes of examination of such facts deponed or written.

(5) The Board shall conduct the hearing in such a manner as it considers most suitable to the just handling and recording of proceedings and shall as far as is appropriate avoid legal technicalities and formalities.

(6) The Board may use electronic models of presenting and recording evidence.

(7) The Board may require witnesses to give evidence on oath or affirmation and for that purpose may administer an oath or affirmation.

(8) The Board may at its own request or at the request of a party to the appeal be provided with visual demonstration facilities for the display of any maps, photographs, charts, diagrams and demonstrations or illustrations of texts and any documents that are to be used for the purposes of making a finding in the matter for determination before it.

30. Close of hearing

(1) On the completion of the hearing of the appeal and presentation of the facts and evidence and statements by technical experts, if any, the Board shall declare the hearing closed.

(2) Hearing and review of facts shall not be re-opened, unless the Board for sufficient reason deems it fit to do so.

31. Submissions

(1) Upon hearing of all facts and evidence and consideration of the matters in question parties may present and file written submissions.

(2) An original and three copies of each submission shall be filed with the Board and served on all parties.

(3) A submission shall not exceed twenty pages, double-spaced without the permission of the Board.

(4) Each set of submissions shall include a table of contents and a table of cases cited, which shall not be counted as part of the twenty-page limit.

32. Decision of the Board

(1) The Board shall, after considering all relevant facts and supportive documents and in accordance with the procedures set out above—

- (a) affirm the original decision;
- (b) vary the original decision;
- (c) quash the original decision; or

(d) make an appropriate decision in accordance with the Act, and may make such other additional orders related to the appeal as may be required by the Act.

(2) The decision shall contain a concise statement of facts and the reasons for the decision.

(3) The majority decision of the Board or a unanimous decision shall constitute the decision of the Board.

(4) The decision of the Board shall be in writing and signed by the Chairman and sitting members of the Board and duly sealed.

(5) The decision of the Board shall be issued to the parties to the appeal, at the time of delivery of the decision or soon thereafter.

(6) The decision of the Board shall be final and binding, except on matters of law.

33. Record of proceedings and decision

(1) The Chairman shall cause a record of proceedings and decisions of the Board to be made.

(2) The record of proceedings and decisions of the Board shall be made available to any interested person upon request.

(3) The record referred to herein shall be kept in accordance with the provisions of the Act and relevant law governing the keeping of records.

34. Decree and enforcement

(1) The decision of the Board and a draft decree shall be filed in the High Court by the parties for execution and enforcement as if it were an order of that Court.

(2) An order or decree shall agree with the decision and specify clearly in paragraphs the relief granted or other determination and costs, if any.

35. Reference for clarification

(1) Within seven days after a decision is delivered by the Board, a party may make a reference in writing to the Board requesting for clarification.

(2) A request for clarification of the decision shall be made before an appeal on matters of law is made to the High Court.

(3) The Board shall issue a clarification or a supplementary report without further hearing of parties.

(4) A clarification or supplementary report shall form part of the decision of the Board.

36. Seal of the Board

(1) The seal of the Board shall be authenticated by the signature of the Chairman.

(2) In the absence of the Chairman any Board member designated by the Chairman for that purpose may authenticate the seal of the Board.

37. Appeal on matters of law

(1) A party may appeal to the High Court on a point of law against the decision of the Board.

(2) The points of law to be appealed against shall be those directly and substantially in issue in the appeal and response to appeal, cross appeal or other application.

[Subsidiary]

38. Waiver

The Board may waive the requirements of these Rules in exceptional cases at its discretion or upon the written request of any of the parties to meet emergencies or to avoid substantial injustice or great hardship.

39. Contempt provisions

(1) A person commits contempt of the Board—

- (a) if, after having been summoned to appear before the Board, the person without good cause does not attend;
- (b) if the person, without good cause, fails to produce any book, document or object specified in a summons;
- (c) if, after having appeared in response to a summons, the person fails to remain in attendance until released by the Board;
- (d) if the person refuses to take the oath or to make an affirmation as a witness when the Board so requires;
- (e) if the person refuses to answer any question fully and to the best of his knowledge and belief;
- (f) if during the proceedings, the person behaves improperly; or
- (g) if the person prejudices or improperly influences the proceedings of the Board.

(2) The Board may issue appropriate directions or refer any contempt to the High Court for appropriate Orders.

SCHEDULES

FIRST SCHEDULE

[Rule 4(5).]

FILING FEES

<i>No.</i>	<i>Pleading</i>	<i>KShs.</i>
1.	Fees for appeals under—	
	Section 28 & Third Schedule	9,000.00
	Section 36 General	9,000.00
	Section 36 Category A & B Permit	9,000.00
	Section 36 Category C & D Permit	15,000.00
	Section 37	15,000.00
	Section 45	15,000.00
	Section 57	15,000.00
	Section 63	15,000.00
	Section 64	15,000.00
	Section 68	50,000.00
	Section 73(6)	15,000.00
	Section 73(7)	15,000.00
	Section 76(4)	15,000.00
	Section 96(1)	15,000.00

FIRST SCHEDULE—*continued*

No.	Pleading	KShs.
	Any other matter under section 85	9,000.00
2.	Counter-claim	9,000.00
3.	Cross appeal	5,000.00
4.	Interlocutory application	2,500.00
5.	Request for Board to effect service on behalf of parties	2,500.00
6.	Statement of opposition or objection	1,250.00
7.	Notice of transfer of water rights	75.00
8.	Notice of changes of address	75.00
9.	Amended pleadings	100.00
10.	Notice of withdrawal of appeal or application	100.00
11.	Consent	225.00
12.	Decision	100.00
13.	Record of proceedings & copies of decision (as per cost of copy)	–
14.	Change of address	75.00
15.	Request for copies per page	–
16.	Copies of other documents – maps, plan	–
17.	Request of clarification	250.00
18.	Draft Decree	250.00
19.	Certification of copies	100.00
20.	The Board shall decide on waiver of fees in cases of hardship	–

SECOND SCHEDULE

[Rule 5(2).]

CATEGORIES OF QUALIFIED PROFESSIONALS TO ACT AS AGENTS

- (a) Lawyers.
- (b) Arbitrators registered by the Chartered Institute of Arbitrators of Kenya.
- (c) Qualified professionals as stipulated in the Water Resources Management Rules.
- (d) Corporate Officers and other Professionals as may be approved by the Board.

Water

[Subsidiary]

THIRD SCHEDULE

[Rule 10(1).]

THE WATER APPEAL BOARD

FORMS OF PLEADING

Form 1

SUMMONS FOR EVIDENCE

APPEAL NO. OF

IN THE APPEAL/APPLICATION OF:

{NAME OF APPELLANT/APPLICANT}

[State name, occupation and place of business or residence of person(s) being required to appear]

- 1.
2.
3.

You are hereby summoned to appear in person before the above-named Board at on day of and thereafter to remain in attendance until excused by the Board in regard to all matters within your knowledge relating to the matter pending before the Board wherein the *appellant/applicant/ respondent is seeking as follows—

YOU ARE REQUIRED to bring and produce to the Board the following—

[insert accurately the document, book or thing to be produced]

- 1.
2.

BE INFORMED that should you on any account neglect to comply with any of the provisions of this summons the Board will be left with no option but to resort to the provisions of Rule 38 of the Water Appeal Board Rules.

(*delete whichever is not applicable)

Signed and dated at this day of

Seal of the Board

Chairman

THE WATER APPEAL BOARD

Form 2

AUTHORITY TO ACT AS AGENT FOR ANY PARTY

IN THE APPEAL/APPLICATION OF:

{NAME OF APPELLANT/APPLICANT/RESPONDENT*}

- 1. I the APPELLANT/RESPONDENT or INTERESTED PARTY hereby authorise to appear on my behalf in the above Appeal.
2. My agent is an authorised person as required by the Rules and Schedule of the Rules.

THIRD SCHEDULE—continued

3. I apply that service of all pleadings and applications be served upon my representative and my representative shall undertakes to be bound by the obligations of parties as contained in the Water Appeal Board Rules.

(* delete whichever is not applicable)

Signed and dated at this day of

Appellant

Agent

NAME AND OCCUPATION/BUSINESS ADDRESS

Name the category of authorised person in accordance with the rule 5(2), Second Schedule.

IN THE WATER APPEAL BOARD

Form 3

FORM OF APPEAL

APPEAL UNDER SECTION OF THE WATER ACT

APPEAL NO. OF

IN THE APPEAL OF:

[NAME OF APPELLANT]

APPELLANT

AND

[NAME OF THE INSTITUTION OR AUTHORITY AGAINST WHOSE DECISION

APPEAL IS LODGED]

FIRST RESPONDENT

OR

[NAME OF WATER MANAGEMENT INSTITUTION]

FIRST RESPONDENT

OR

[NAME OF CATCHMENT MANAGEMENT AGENCY]

SECOND RESPONDENT

[NAME OF INTERESTED PARTY {IF APPLICABLE}

THIRD RESPONDENT

1. Take Notice that the Appellant appeals against the decision of the *Water Resources Management Authority/Catchment Management Agency/Water Services Regulatory Board/Water Services Board, the Minister

2. The Appeal relates to water services/water resources*.

3. The decision appealed against is:

.....

4. The Appeal is to be determined by the Water Appeal Board at a date, time and place to be set by Notice to the Parties.

[Subsidiary]

THIRD SCHEDULE—continued

- 5. The Appeal is based on the following grounds.
[set out each ground concisely]
.....
.....
.....
(Attach any relevant documents)
- 6. The decision sought for is:
.....
.....
- 7. And take note that the Appellant appoints as Appellant's representative in this matter.
- 8. Take note also that the Appellant shall accept services of all documents on the above matter at the Appellant's address which is set below:
.....
.....
.....

(* delete whichever is not applicable)

Signed and dated at this day of

Appellant/ Agent

IN THE WATER APPEAL BOARD

Form 4(a)

APPEAL AGAINST AN ORDER PREVENTING THE DEGRADATION OF WATER IN TERMS OF SECTION 73(6) OF THE WATER ACT 2002

APPEAL NO. OF

IN THE APPLICATION OF:

[NAME OF APPLICANT]

APPELLANT

[NAME OF RESPONDENT]

RESPONDENT

Take Notice that the Applicant applies against the Order of preventing degradation of water in (Area)

- 1. The application is based on the following grounds:
[set out each ground concisely]
(a)
(b)
(c)
(d)
- 2. The decision sought in this Appeal is:
.....
.....

THIRD SCHEDULE—continued

- 3. And take note that the Applicant appoints as Applicant's representative in this matter.
- 4. Take note also that the Applicant will accept services of all documents on the above matter at the *Applicant's address/address of the offices of the Applicant's representative, which is set below.
.....
.....
- 5. The Applicant's representative understands the requirements of representation as stipulated in the Water Appeal Board Rules.
- 6. The date, time and place of the hearing shall be determined by the Water Appeal Board.
(* delete whichever is not applicable)

Signed and dated at this day of

.....
Applicant/Agent

IN THE WATER APPEAL BOARD

Form 4(b)

APPLICATION FOR DETERMINATION OF COMPENSATION IN TERMS OF SECTION 73(7) OF THE WATER ACT, 2002

APPLICATION NO. OF

IN THE APPLICATION OF:

[NAME OF APPLICANT]

APPELLANT

[NAME OF RESPONDENT]

RESPONDENT

Take Notice that the Applicant applies for the determination of compensation in terms of section 73(7) of the Act.

- 7. The application is based on the following grounds:
[set out each ground concisely]
(a)
(b)
(c)
(d)
- 8. The decision sought in this Appeal is:
.....
.....
- 9. The amount of compensation claimed is:
.....
.....
- 10. And take note that the Applicant appoints as Applicant's representative in this matter.

Water

[Subsidiary]

THIRD SCHEDULE—continued

11. Take note also that the Applicant will accept services of all documents on the above matter at the *Applicant's address/address of the offices of the Applicant's representative, which is set below.

.....
.....
.....

12. The Applicant's representative understands the requirements of representation as stipulated in the Water Appeal Board Rules.

13. The date, time and place of the hearing shall be determined by the Water Appeal Board.

(* delete whichever is not applicable)

Signed and dated at..... this day of

.....
Appellant/Agent

IN THE WATER APPEAL BOARD

Form 5

APPEAL AGAINST ORDERS TO REMEDY DEFAULTS UNDER SECTION 96(1) AND 96(3) OF THE WATER ACT, 2002

APPEAL NO. OF

[NAME OF APPELLANT]

Take Notice that the Appellant appeals against the Order of the WATER RESOURCES MANAGEMENT AUTHORITY

- (a) to remedy
 - (b) to clean up pollution or other detriment
 - (c) to remove or destroy works, plant or machinery
- [fill in as applicable]

1. The Appeal is based on the following grounds:
[set out each ground concisely]

- (a)
- (b)
- (c)
- (d)

(Attach relevant documents)

14. The decision sought in this Appeal is:

.....
.....
.....

15. And take note that the Applicant appoints..... as Applicant's representative in this matter.

THIRD SCHEDULE—continued

16. Take note also that the Appellant will accept services of all documents on the above matter at the *Appellant's address/address of the offices of the Appellant's representative, which is set below.

.....
.....
.....

17. The date, time and place of the hearing shall be determined by the Water Appeal Board.
(* delete whichever is not applicable)

Signed and dated at this day of

.....
Appellant/Agent

IN THE WATER APPEAL BOARD

Form 6

(r. 35)

REQUEST FOR CLARIFICATION IN TERMS OF RULE 35 OF THE WATER APPEAL BOARD RULES

APPLICATION NO. OF

IN THE APPLICATION OF:

{NAME OF APPELLANT/RESPONDENT/APPLICANT}

1. Take notice that the Applicant applies for Clarification of the decision in terms of rule 35.

2. The paragraphs of the decision or order of the decision in issue are:

- (a)
- (b)
- (c)
- (d)

3. The application is based on the following grounds:

[set out each ground concisely]

- (a)
- (b)
- (c)
- (d)

Signed and dated at this day of

.....
Appellant/Agent

BY ORDER OF THE BOARD

WATER RESOURCES MANAGEMENT RULES, 2007

ARRANGEMENT OF RULES

PART I – PRELIMINARY

Rule

1. Citation.
2. Interpretation.
3. Units.
4. Application of Rules.
5. Mechanism for complaints.
6. Public notification.
7. Public consultation.
8. Orders.
9. Protection of integrity of the water resources monitoring network.
10. Water Resource Users Associations.
11. Entry upon land.
12. Water resource inspector.
13. Water resource data.
14. Register of water bodies.
15. Powers to exempt from Rules.

PART II – APPROVAL, AUTHORISATION AND PERMITS

16. Activity that requires approval by Authority.
17. Verification of existing permits.
18. Validity of applicant.
19. Water Resource User Identification Number.
20. Authorised water uses to be appurtenant to land.
21. Authorisation to use works owned by another person.
22. Category of water resource use activities.
23. Approval of water use through notification by water user.
24. Permit application.
25. Maps to accompany applications.
26. Payment of application assessment fees.
27. Requirement for site assessment report and technical report.
28. WRUA comments on applications.
29. Public notification of permit applications.
30. Objection to permit application.
31. Site meeting.
32. Rejection of application.
33. Authorisation to construct works.
34. Limitations of authorisation.
35. Conditions of authorisation.
36. Extension of authorisation.
37. Register of authorisations and permits.

[Subsidiary]*Rule*

38. Completion certificate.
39. Water use permit validity and requirement for fees.
40. Conditions of permit.
41. Transfer of permit by permit holder.
42. Variation of permit by permit holder.
43. Variation or cancellation of permit by the Authority.
44. Renewal of permit.
45. Register of approved water users, water uses and permits.
46. Limitation of liability of Authority with respect to approved water uses and permits.
47. Public notification of authorisations and permits.
48. Requirements to meet other Rules and Acts.

PART III – SURFACE WATER

49. Normal flow and flood flow.
50. Declaring a watercourse.
51. Boundary of properties defined by a watercourse.
52. Wetlands.
53. Allocation of water for irrigation.
54. Prior right to water for storage.
55. Need for storage.
56. Classification of dams.
57. Dam to be designed by a qualified water resource professional.
58. Dam to be constructed by a registered dam contractor.
59. Dam safety inspection.
60. Minimum net freeboard.
61. Minimum spillway design flood.
62. Release and use of stored water.
63. Compensation flow.
64. Dam design report.
65. Dam construction progress report.
66. Dam completion and dam operation reports.
67. Notice downstream.
68. Failure of, or damage to, a dam to be reported.
69. Hydropower.
70. Surface water data.
71. Works associated with fish movement for protection and control of fish.

PART IV – GROUNDWATER

72. Groundwater development authorisation.
73. Regulation of groundwater development.
74. Borehole and well test pumping.
75. Supervision of works.
76. Borehole or well completion record.
77. Award of permit or approval.

Rule

- 78. Artificial groundwater recharge.
- 79. Monitoring data.
- 80. Ground water data.

PART V – WATER QUALITY MONITORING AND EFFLUENT DISCHARGE

- 81. Control of water pollution.
- 82. Effluent discharge into any water resource.
- 83. Water quality requirements.
- 84. Effluent discharge records.
- 85. Effluent discharge control plan.
- 86. Authorising effluent discharge applications.
- 87. Award of effluent discharge permits.
- 88. Spillage.
- 89. Water quality monitoring.
- 90. Water quality and effluent discharge data.
- 91. Pollution control enforcement.
- 92. Non-point source pollution.

PART VI – WORKS

- 93. Inspection of works prior to, during and post construction.
- 94. Temporary works.
- 95. Abandoned works.

PART VII – CONDITIONS OF AUTHORISATION, PERMITS AND APPROVED WATER USES

- 96. Easement.
- 97. Compliance with the Environmental Management and Co-ordination Act.
- 98. Inspection of works.
- 99. Controlling and measuring devices.
- 100. Limitation of flow or quantity.
- 101. Collection and submission of abstraction, water quality and effluent discharge data.
- 102. Storage.
- 103. Airline.

PART VIII – WATER USED CHARGES

- 104. Water use charges.
- 105. Variation of water use charges.
- 106. Self-assessment of water used.
- 107. Time limitation on arrears.
- 108. Water resource conservation charge.
- 109. Penalty for over-abstraction.
- 110. Incentive for flood water storage.
- 111. Penalty for lack of measuring device.
- 112. Appointment of revenue collection agents.
- 113. Modes of payment of water use charges.
- 114. Interest for late payment.
- 115. Failure to pay.

[Subsidiary]

PART IX – CONSERVATION OF RIPARIAN AND CATCHMENT AREAS

Rule

116. Determination of the riparian land.
117. Demarcation of the riparian land.
118. Proscribed activities on riparian land.
119. Orders related to riparian land.
120. Soil and water conservation plan.

PART X – CATCHMENT MANAGEMENT STRATEGIES

121. Establishment of catchment management strategies.
122. Guiding principles for catchment management strategies.

PART XI – PROTECTED AREAS AND GROUNDWATER CONSERVATION AREAS

123. Process of identifying areas to be protected or designated as groundwater conservation areas.
124. Management rules related to a protected area or groundwater conservation area.
125. Public consultation regarding areas to be protected or designated as groundwater conservation areas.
126. Failure to comply with the management rules for a protected area or groundwater conservation area.

PART XII – THE RESERVE

127. Composition of the reserve.
128. Reserve quantity.
129. Information on the protection of the reserve.

PART XIII – MISCELLANEOUS

130. Categories of qualified water resource professionals.
131. Registration and regulation of qualified water resource professional and qualified contractor.
132. Criteria for qualified water resource professional.
133. Applicant to be licensed as a qualified water resource professional.
134. Need for professional interview.
135. Issuance of professional water resource licence.
136. Compliance with professional codes of practice.
137. Register of qualified water resource professionals.
138. Complaint made against a qualified water resource professional.
139. Requirement of a qualified water resource professional to approve designs and drawings.
140. Misrepresentation as a qualified water resource professional.
141. Categories of qualified contractors.
142. Criteria for qualified contractor.
143. Application to register as a qualified contractor.
144. Issuance of qualified contractor licence.
145. Verification of necessary authorisations.
146. Compliance with Codes of Practice.
147. Complaint made against a qualified contractor.
148. Register of qualified contractors.

Rule

- 149. Misrepresentation as a qualified contractor.
- 150. Recognised water quality laboratories.
- 151. Measures during emergencies.
- 152. Terms and conditions of the Authority's CAAC members.
- 153. Penalties for offences.
- 154. Revocation of Rules under Cap. 372.

SCHEDULES

- FIRST SCHEDULE – FEES AND CHARGES
 - SECOND SCHEDULE – TECHNICAL REPORTS
 - THIRD SCHEDULE – GUIDELINE STANDARDS FOR EFFLUENT DISCHARGE
 - FOURTH SCHEDULE – DETAILS FOR STORAGE DAMS
 - FIFTH SCHEDULE – WATER USE AND PERMIT DETAILS
 - SIXTH SCHEDULE – PROTECTION AND CONSERVATION OF RIPARIAN AND CATCHMENT AREAS
 - SEVENTH SCHEDULE – RESPONSE TO VIOLATION OF THE RESERVE
 - EIGHTH SCHEDULE – QUALIFIED WATER RESOURCES PROFESSIONALS AND QUALIFIED CONTRACTORS
 - NINTH SCHEDULE – EMERGENCY ORDERS
 - TENTH SCHEDULE – FORMAT FOR REPORT ON COMPLAINTS
 - ELEVENTH SCHEDULE – WATER QUALITY SAMPLING PROCEDURES
 - TWELFTH SCHEDULE – LIST OF FORMS AND REGISTERS
-

[Subsidiary]

WATER RESOURCES MANAGEMENT RULES, 2007

[L.N. 171/2007, L.N. 93/2011.]

PART I – PRELIMINARY

1. Citation

These Rules may be cited as the Water Resources Management Rules.

2. Interpretation

In these Rules, unless the context otherwise requires—

“**abstraction**” means the removal of water from any water source, either permanently or temporarily;

“**airline**” means a tube installed in a borehole or well for the purposes of measuring water level;

“**alien species**” means any exotic non-indigenous life forms originating from outside a given ecological location;

“**alteration**” means any physical change in the depth, diameter, casing, screen or any other structural change in an existing borehole, or any consequent change in permit yield as a result of an approved variation;

“**analysis**” means the testing or examination of any matter, substance or process for the purpose of determining its composition or qualities or its effect (whether physical, chemical or biological) on any segment of water or examination thereof;

“**aquifer**” means a geological formation, group of formations or part of a formation containing sufficient saturated permeable material to yield significant quantities of water to boreholes or springs;

“**arbitration**” means to decide between parties in a dispute or conflict of water use, source or availability;

“**artificial groundwater recharge**” means the intentional augmentation of groundwater resources by directly improving the infiltration of water to a target aquifer through the construction of suitable recharge structures;

“**authorisation**” means authorisation to construct works;

“**authorised**” means as approved by the Authority;

“**authorised officer**” means any officer appointed under section 9(3) of the Act to perform such duties as may be required under the Act;

“**Authority**” means the Water Resources Management Authority established under section 7 of the Act;

“**basic human needs**” means the quantity of water required for drinking, food preparation, washing of clothes, bathing, basic sanitation and is assumed to be equal to twenty-five litres per person per day;

“**beneficial use**” refers to the usefulness into which water is put from the way it is utilised;

“**borehole**” means a hole, usually vertical, drilled to determine ground conditions for the extraction of, or measurement of groundwater;

[Subsidiary]

“**buffer zone**” means distinct or established areas that separate potentially antagonistic entries between competing users, which serve to lessen the danger of potential conflicts;

“**canal**” means any surface drain, ditch, furrow, channel, flume or other conduit for conveying water, the surface of which is at atmospheric pressure;

“**catchment area**” means an area designated under section 14 of the Act;

“**Catchment Area Advisory Committee**” means a committee established under section 16 of the Act;

“**catchment management plan**” refers to a programme of measures that have been developed for the purposes of conserving and or improving the conditions of the catchment;

“**Catchment Management Strategy**” refers to a document that has been prepared for the purpose of directing the management of the water resources within the catchment area;

“**charges**”, in relation to the use of water from a water resource, includes fees, levies and premiums of any kind;

“**chemical**” means a chemical substance in any form whether by itself or in a mixture or preparation, whether manufactured or derived from nature, and includes industrial chemicals, pesticides, fertilisers and drugs;

“**class of water resource**” refers to the set of categories that have been established under these Rules to distinguish one water resource quality from another;

“**commercial irrigation**” means irrigation primarily for commercial purposes;

“**commercial programme**” means any program licenced under the relevant law and generates waste effluents as described under these Rules;

“**compensation flow**” is the flow released from a dam or weir which is required for downstream uses and the Reserve;

“**containerised water**” means natural mineral water, spring water and drinking water packaged in a container for purposes of sale or retailing;

“**control device**” refers to a fitting, equipment or infrastructure which can be adjusted so as to control the flow or level of water;

“**dam**” refers to an embankment constructed for the purpose of retaining water;

“**day**” means a day of twenty-four hours;

“**decommissioning a borehole**” means the permanent safe closure, removal or complete sealing of a well with sealants or other materials to prevent its use for any purpose so as to protect the groundwater resource;

“**designated person**” means any person authorised by the Authority to act on its behalf;

“**discharge**” means volumetric flow rate;

“**domestic water demand**” is the quantity of water required to satisfy all domestic needs;

“**driller**”, “**water well driller**” or “**drilling contractor**” means a person, firm or agency which is registered to undertake the construction or rehabilitation of a borehole;

[Subsidiary]

“duty of water” means the efficiency of water with respect to the irrigation of a given area of land, which is said to be high or low depending on the quantity of water required for the purpose;

“easement of aqueduct” means an easement for the storage of water by the construction of a dam, weir, obstruction or other works, with the consequent submergence of the area covered by stored water, but in this connection does not include an easement of work;

“easement of work” means an easement for the construction of a dam, weir, embankment, training works, pump, turbine, power-house and other ancillary works, but does not include an easement for storage, except when the water stored is obtained from a well;

“effluent” means waste which is—

- (a) a liquid which flows out of a containing space;
- (b) untreated or fully or partially treated sewage water or other liquid, discharged directly or indirectly into a water resource;

“Effluent Discharge Control Plan” is the plan referred to in the Second Schedule of these Rules;

“emergency” refers to a disaster or hazard caused by climatic, hydrologic, tectonic, accidental, natural or man made events which have or potentially can affect a large population and which require extraordinary measures to be undertaken to safeguard public interests;

“environment” includes the physical factors of the surroundings of human beings, including land, water, atmosphere, climate, sound, odour, taste, the biological factors of animals and plants and the social factor of aesthetics and includes both the natural and the built environment;

“environmental management” means a mechanism aimed at the protection, conservation and sustainable use of the environment;

“Environmental Management Plan” means the plan referred to under section 42(3) of the Environmental Management and Co-ordination Act, 1999 (No. 8 of 1999);

“environmentally friendly” includes any phenomenon or activity that does not cause harm or degradation to the environment;

“fish farming” means the breeding and or raising of fish for the purposes of commercial production;

“flow” means a volume of water passing a cross a section of a body of water, watercourse or works in a unit of time;

“fresh water limit” means the place in water where at low tide and in a period of low fresh water flow there is an appreciable increase in salinity due to the presence of sea water;

“guidelines” means the description of the methodology for water and waste water quality determination;

“in-course works” or **“online works”** or **“in-stream works”** refers to any infrastructure built within or across a watercourse;

“irrigation” refers to the artificial application of water to a plant;

[Subsidiary]

“**lead agency**” means any Government Ministry, department, parastatal, State corporation or local authority, in which any law vests functions of control or management of any element of the environment or natural resources;

“**legally registered entity**” means an organisation, corporate body or person that has legal status;

“**local authority**” has the meaning assigned to it in section 2 of the Local Government Act (Cap. 265);

“**marine environment**” means the maritime area extended in the case of water courses up to the freshwater limit and including intertidal zones and saltwater marshes;

“**measuring device**” refers to a fitting, equipment or infrastructure which can be calibrated to provide an accurate measure of the flow or level of water;

“**natural resources**” includes resources of air, land, water, animals and plants including their aesthetic qualities;

“**natural water body**” means groundwater and water contained in or flowing in a spring, stream, lake, pond, wetland, marsh or swamp;

“**non-point source**” refers to dispersed sources;

“**normal water level**” refers to the water level at the dam spillway crest level;

“**operator**” means any person authorised to construct works under these Rules by authorisation, or to divert, abstract, or use water by permit;

“**overflowing well**” means a borehole from which groundwater discharges at ground surface under natural head, correctly called artesian;

“**pan**” means a hand or mechanically excavated structure constructed for retaining water;

“**permit**” means a permit for the time being in force under this Act;

“**permit holder**” means the person the Authority has issued with a permit or any other person acting under the authority of the permit holder;

“**person**” includes an individual, corporation, company, association, Government department, partnership or local authority;

“**pH**” means the negative base 10 logarithm of the hydrogen ion concentration;

“**plan**” means a map or drawing and the associated literature;

“**point source**” means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, conduit, tunnel, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft from which pollutants are or may be discharged;

“**pond**” means a natural depression that contains water;

“**provincial administration**” refers to the public administration under the Provincial Commissioner, District Commissioner, District Officer, Chief or Assistant Chief;

“**public notification**” means the process of notifying the public by means of publication in the Kenya *Gazette*, at least one announcement in a national newspaper in circulation in the locality, at least one announcement on the radio broadcasting in the locality or any other local means of communication;

[Subsidiary]

“**public water supply**” refers to a water supply that has been developed to supply water to cities, municipalities, townships, villages and communities and includes a variety of different water uses, excluding power generation and irrigation;

“**qualified water resource professional**” means a person qualified under these Rules to provide the services of a professional chemist, hydrologist, hydrogeologist, engineer, surveyor or other professional service required to be performed under the Act;

“**receiving water body**” means any surface or groundwater body that may be used for effluent disposal under the Act;

“**rehabilitation**” means any physical, mechanical or chemical process conducted in any water infrastructure which is undertaken to improve its operational status;

“**return flow**” means the portion of the water abstracted that is returned to the watercourse;

“**riparian land**” means land in respect of which management obligations are imposed on the owner by the Authority due to its proximity to a water body;

“**soil and water conservation plan**” means a set of activities that have to be done in order to reduce the likelihood of soil and water loss from the landscape;

“**stakeholder**” means a person or entity which has influence over or is affected by a certain activity on a resource;

“**standard**” means the limits established under these Rules which are made pursuant to the Act or any other written law;

“**stream**” means the water flowing in a watercourse, and includes a river;

“**subsistence irrigation**” means irrigation primarily for household food security purposes;

“**test yield**” means the average discharge rate of the constant discharge pumping test conducted on a borehole;

“**variation**” means any authorised amendment made to a water permit;

“**waste**” includes any matter prescribed to be waste and any matter whether liquid, solid, gaseous, hot or radioactive substances, which is discharged, emitted or deposited in the environment in such volume composition or manner likely to cause an alteration of the environment;

“**waste water**” is water containing waste;

“**Water Resource User Association (WRUA)**” is an association of water users, riparian landowners, or other stakeholders who have formally and voluntarily associated for the purposes of co-operatively sharing, managing and conserving a common water resource;

“**Water Resources Monitoring Network**” means the set of equipment, infrastructure established for the purpose of monitoring the quantity and quality of the water resources;

“**weir**” means an obstruction placed across the watercourse or body of water for the primary purpose of abstracting or diverting water, or of arresting or retarding its flow, but not for storage;

“**wetland**” refers to an area where plants and animals have become adapted to temporary or permanent flooding by saline, brackish or fresh water.

3. Units

For the purposes of these Rules, unless specifically stated otherwise, the units of measurement shall be Systeme Internationale (SI) Units.

4. Application of Rules

(1) These Rules shall apply to all policies, plans, programmes, and activities that are subject to the Water Act, 2002.

(2) These Rules shall apply to all water resources and water bodies in Kenya, including all lakes, watercourses, streams and rivers, whether perennial or seasonal, aquifers, and shall include coastal channels leading to territorial waters.

5. Mechanism for complaints

(1) Any person with a complaint related to any matter covered by these Rules shall submit the complaint to the appropriate office of the Authority providing the details as shown in the Tenth Schedule.

(2) The Authority shall reply to the complainant with copies to all other relevant parties, within twenty-one days of receiving the complaint, stating what action is being taken, the position of the Authority on the matter and any recommendation to the complainant.

(3) If the complainant is dissatisfied, he or she may forward the matter to the Chief Executive Officer of the Authority.

(4) The Chief Executive Officer shall reply to the complainant, with copies to all other relevant parties, within twenty-one days of receiving the complaint stating what action is being taken, the position of the Authority on the matter and or any recommendation to the complainant.

(5) If the complainant is dissatisfied with the final decision of the Authority, he or she may forward the matter to the Water Appeal Board.

(6) Each complaint shall be given a complaint number by the Authority which shall be used for purposes of monitoring the response to the complaint.

6. Public notification

Unless explicitly stated otherwise by the Authority, public notification shall consist of publication in the Kenya *Gazette*, at least one announcement in a national newspaper in circulation in the locality, at least one announcement on the radio broadcasting in the locality, and any other local means of communication.

7. Public consultation

(1) Unless explicitly stated otherwise by the Authority, public consultation shall consist of the activities as stipulated in section 107 of the Act.

(2) In giving effect to the requirements of public consultation, the Authority shall take steps to engage members of the public who may otherwise not be informed or aware of the issues being brought before them.

8. Orders

(1) The Authority may issue an order on any person to desist from any activity, or to carry out corrective measures to improve compliance with these Rules for better water resource quality and or catchment conditions.

[Subsidiary]

(2) The order will be made on the prescribed Form WRMA 016 set out in the Twelfth Schedule and shall specify what measures need to be taken, the period of time for compliance with the order, and any other conditions pertaining to the compliance with the order.

(3) Any person who is served with an order by the Authority and fails to comply within the stated period of time shall be guilty of an offence and shall be liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding three months, or to both. The person shall also be required to comply with the order.

(4) Failure to comply with an order by the Authority may be considered as a basis for suspension, cancellation, or variation of a permit.

(5) Any person who objects to any part of an order served on him by the Authority shall respond in writing to the Authority within fourteen days, giving particulars of the objection.

(6) In the event of an objection to an order, the Authority shall, within seven days of receiving the objection, notify the person served with the Order of any changes to the conditions of the order.

(7) Where an order is not complied with within the time frame stated on the order the Authority may take any appropriate measures to prevent the carrying out of the activity mentioned in the order, including the confiscation of equipment plant or works, and any costs incurred by the Authority in effecting these measures shall be a cost recoverable from the recipient of the order.

(8) If the complainant is dissatisfied, the complainant may follow the mechanism for complaints as specified in these Rules.

(9) Where the Authority determines that an activity may cause deterioration of the resource quality, the Authority shall take immediate emergency corrective measures without reference to the person who caused it, and any costs incurred by the Authority in effecting these measures may be recovered from the person responsible.

9. Protection of integrity of the water resources monitoring network

(1) Any person who undertakes any activity that damages or hinders the proper functioning of the monitoring network for a water resource shall be given the opportunity of meeting the cost of repair, within a period of time determined by the Authority.

(2) Any person who undertakes any activity that damages or hinders the proper functioning of the water resource monitoring network and who fails to make good the damage or cover the costs of repair, shall be guilty of an offence and shall be liable to a fine not exceeding fifty thousand shillings or to an imprisonment for a term not exceeding three months, or to both. The person shall also be required to repair the damage.

10. Water Resource Users Associations

(1) For a WRUA to be considered for registration by the Authority, it should be legally registered, have a constitution conducive to collaborative management of the water resources of a particular resource and which promotes public participation, conflict mitigation, gender mainstreaming and environmental sustainability.

(2) Any WRUA that meets the prescribed conditions may seek to register with the Authority, by submitting the prescribed Form WRMA 018 set out in Twelfth Schedule.

(3) The Authority shall respond in writing within thirty days of the receipt of the application by the WRUA.

(4) Upon registration the Authority shall issue the WRUA with a certificate of registration.

(5) The Authority shall maintain a Register of WRUAs as per Form Register 001 set out in the Twelfth Schedule.

(6) Whenever the particular details of the WRUA change the prescribed Form WRMA 018 set out in the Twelfth Schedule should be re-submitted.

(7) The Authority may enter into a Memorandum of Understanding with a WRUA for the purposes of collaborative management of the water resources.

(8) The Memorandum of Understanding may provide for administrative, technical or financial support to the WRUA by the Authority in respect of activities related to collaborative water resource management.

(9) The Authority may with good cause suspend a WRUA from its Register of WRUAs if the WRUA fails to adhere to its own constitution, fails to engage in collaborative management of the water resources or fails to honour the Memorandum of Understanding with the Authority.

(10) During the period a WRUA is suspended, it shall not be engaged in any activities related to any Memorandum of Understanding entered into with the Authority, without the approval of the Authority.

(11) The Authority may lift the suspension upon being satisfied that the WRUA has taken corrective measures on the issues that led to the suspension.

(12) Failure to take corrective measures, within a specified time, the Authority shall remove the WRUA from its register and the WRUA shall cease to be engaged in any water resources management activities covered under any memorandum entered into with the Authority.

(13) WRUA Registration with the Authority does not confer any legal standing on the WRUA but clarifies which entity is considered by the Authority to be a WRUA for a particular water resource.

(14) Any WRUA under suspension that violates the conditions of the suspension or any WRUA removed from the register that engages in water resources management activities covered in the Memorandum of Understanding entered into with the Authority shall be guilty of an offence.

11. Entry upon land

Every applicant for authority to enter upon land belonging to other persons for survey or investigative purposes of water resource management or development under section 89 of the Act, shall submit to the Authority the application on the prescribed form WRMA 017 set out in the Twelfth Schedule.

12. Water resource inspector

(1) The Authority may, in writing, authorise any person employed in the public service, or any servant, agent or contractor of such person, to exercise any of the powers, duties or obligations vested in it by these Rules.

(2) The following persons shall perform the duties and have the powers of water resources inspector—

- (a) any person appointed to a post that is equivalent to or more senior than that of a water resources officer or water rights officer in the Authority;
- (b) persons other than officers of the Authority, appointed by the Authority by notice in the *Gazette* as water resources inspector, which persons may receive such payment in respect of their services as the Authority may determine; and

[Subsidiary]

- (3) Every person appointed by the Authority as a water resource inspector shall—
- (a) carry a document of identification and shall produce it, when required, in the performance of his or her duties; and
 - (b) carry a field notebook in Form 021 set out in the Twelfth Schedule.

[L.N. 93/2011, s. 2.]

13. Water resource data

(1) The Authority shall maintain a database for purposes of water resource management.

(2) The database shall contain data on climate, surface water, groundwater, water quality, catchment conditions, abstractions, permits, water use and any other data relevant to the management of the water resources.

(2A) Every region shall maintain a Water Resources Management Authority regional incidence occurrence register in Form 022 set out in the Twelfth Schedule and which shall form part of the regional database.

(3) Any person requiring water resource data from the Authority shall make an application for it in writing.

(4) The request for data should be reasonable and relevant with respect to a specific activity and area.

(5) The applicant shall be required to pay the prescribed fees set out in the First Schedule for the data, unless the Authority is satisfied that the data is to be used for research or non-commercial purposes.

(6) Data provided by the Authority shall not be transferable to a third party and the Authority shall not be liable for any errors or omissions in the data.

(7) The citation of any publication that uses data from the Authority shall be submitted to the Authority with a brief summary of the publication within thirty days of the date of publication.

[L.N. 93/2011.]

14. Register of water bodies

(1) The Authority shall maintain a register and map of all water bodies within the country which will detail the official name and class (if any) of each water body.

(2) The official name shall be determined by the Authority after consultation with other Government departments and other stakeholders.

15. Powers to exempt from Rules

(1) The Chief Executive Officer of the Authority may, stating both the justification and the time limits order in writing that any provision of these Rules shall not apply to any particular case or person, or to such extent and subject to such special conditions as it may deem reasonable under the circumstances.

(2) Exemptions made under sub-rule (1) shall not compromise the wider public interest.

PART II – APPROVAL, AUTHORISATION AND PERMITS**16. Activity that requires approval by Authority**

(1) Any person intending to or currently undertaking any of the water use activities defined in the Act including the activities listed in the Fifth Schedule shall obtain approval from the Authority to undertake the activity.

[Subsidiary]

(2) Notwithstanding anything contained in these Rules, no water works approval, authorisation and permit shall be issued or renewed for the purposes of supplying water for domestic, public, commercial or industrial use within the limits of supply of a water service provider without the applicant having received consent of the licensed water service provider for the area.

(3) Sub-rule (2) shall also apply to all authorisations and permits issued before commencement of these Rules.

17. Verification of existing permits

(1) Any person holding a water permit or authorisation shall submit a copy of the same and/or with other related documents to the Authority for verification within twelve months of the commencement of these Rules.

(2) Failure to submit documents for verification within the specified period may be used as a basis for revocation, variation or cancellation of the permit or authorisation.

18. Validity of applicant

(1) An application under section 16 shall be made by any person or legally incorporated body, being the owner of the land on which the water is to be or is being used or the authorised operator of the system with lawful access to the water.

(2) The Authority shall require the applicant to provide satisfactory evidence of a person or body's legal status.

(3) An application shall be made by the person intending to use the water, being owner of the land on which the water is to be or is being used or the authorised operator of the system with lawful access to the water.

19. Water Resource User Identification Number

The Authority shall assign a unique Water Resource User Identification Number for each water user within a given catchment area which shall be used as a reference number in respect of all correspondence, approvals and permits issued by the Authority.

20. Authorised water uses to be appurtenant to land

(1) Upon the approval of an application, an applicant shall have authority to undertake the intended water use activity on any land related to the application.

(2) The Authority may require satisfactory evidence of land ownership to undertake the water use activity on any land related to the application.

(3) Satisfactory evidence may consist of, but is not limited to, an authentic title deed, lease agreement, easement, wayleaves or a letter from the landowner or community endorsed by the provincial administration.

21. Authorisation to use works owned by another person

(1) Any applicant intending to use works owned by another person must obtain approval from the owner of the works to use the works.

(2) The Authority shall require satisfactory evidence that approval by the owner of the works has been granted to the applicant to use the works.

(3) Where in the opinion of the Authority the monitoring and control of water use could be best achieved by issuance of separate permits to applicants sharing common works, the Authority shall issue separate water permits or a supplementary permit as may be applicable.

[Subsidiary]

(4) Any agreement between two parties regarding the use of permitted works shall be registered with the Authority to enable the Authority to evaluate the content of the agreement.

(5) Where, in the opinion of the Authority the public interest would best be served by the use of existing works, it will order the owner of the works to make available the works to any applicant so long as the water use of the owner of the works is not adversely affected.

(6) The owner of the works shall be entitled to fair compensation for use of the works by the applicant(s).

22. Category of water resource use activities

(1) Water use activities shall be categorised into four different categories for the better management of the resource, and the basic principles for classification are set out in the Fifth Schedule.

(2) Details regarding the criteria applicable to each category of water use shall be determined by the Authority in consultation with the Catchment Area Advisory Committees.

(3) The details may vary from water body to water body and from catchment to catchment to reflect catchment differences.

(4) The Authority may from time to time revise the criteria to reflect changing circumstances.

23. Approval of water use through notification by water user

(1) Any person whose works or water use activity falls within Category A is required to notify the Authority, prior to construction or installation of works, of the water use activity using the prescribed Form WRMA 001 set out in the Twelfth Schedule and will be required to pay the prescribed fee.

(2) Endorsement by the Authority on the submitted Form WRMA 001 will confer approval for the applicant to undertake the water use activity described in the application and limited by any conditions imposed on Category A water users.

(3) The Authority may, stating reasons, require any Category A water user to apply for a water permit after re-assessment of the water resource quality, as defined in these Rules, or on the basis of any other reasonable cause.

(4) Whenever there are changes to any particulars related to the water user or water use activity, the water user shall notify the Authority within twenty-one days of the change in particulars.

(5) Any person who fails to notify the Authority of the water use changes within the specified period shall be guilty of an offence and shall be liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding three months, or to both.

24. Permit application

(1) Any person who proposes to use water falling into Category B, C or D shall make an application for a water use permit in the prescribed Form WRMA 001 set out in the Twelfth Schedule.

(2) The applicant is required to describe the intended purpose(s) for which the application is made.

(3) The Authority may, depending on the description of the intended purpose(s), require a technical report.

(4) A separate application for water resource use as set out in the Fifth Schedule shall be made to the Authority with respect to the following criteria—

- (a) each abstraction point, whether from surface or groundwater;
- (b) each effluent discharge point unless covered under another application;
- (c) each point of storage unless covered under another application;
- (d) separate activities other than those covered above.

25. Maps to accompany applications

(1) Every water use applicant shall submit to the Authority a map acceptable to the Authority showing the water body, the location of the works, supply area, location of all authorisations or permits currently held by the applicant relevant to this application and any other relevant details as may be required by the Authority.

(2) All significant points on the map shall be geo-referenced showing Universal Transverse Mercator (UTM) co-ordinates and zones with respect to the Arc 1960 datum.

26. Payment of application assessment fees

(1) For each complete application, the applicant shall pay the prescribed fee set out in the First Schedule before the application is processed by the Authority.

(2) In the event that an application made has not been determined within six months, then the application fee shall be refunded to the applicant, together with the application, and a written explanation.

27. Requirement for site assessment report and technical report

(1) The Authority may require the applicant to submit a site assessment report and or a technical report to the authority to support the application.

(2) A site assessment report or technical report shall be substantially as set out in the Second Schedule.

(3) A site assessment report or a technical report shall be prepared by a qualified water resource professional.

(4) In exceptional circumstances, where it is demonstrated that an applicant is unable to engage the services of a consultant for the preparation of a site assessment report or any other technical report, the Authority may, at the request of the applicant, undertake the report preparation.

(5) The applicant requesting for the services of the Authority in the preparation of the site assessment report or any other technical report, shall be required to make a request in writing stating why consultant services cannot be engaged.

(6) Upon satisfaction that it is in the interest of the applicant for the Authority to undertake the preparation of the site assessment report or any other technical report, the Authority shall undertake the preparation of the report, provided that the water resource professional officer of the Authority who prepares the report shall not also be involved in the evaluation of the same report.

(7) Where a water resource professional officer of the Authority undertakes the preparation of a site assessment report or any other technical report, the officer shall be deemed to be a qualified water resource professional.

28. WRUA comments on applications

(1) The Authority shall submit a copy of every water use application to the relevant registered WRUA, if one exists, for comment.

[Subsidiary]

(2) The WRUA's comments on a water use application shall be submitted to the Authority in the prescribed Form WRMA 003 set out in the Twelfth Schedule within thirty days of receipt of the application by the WRUA.

(3) The Authority may proceed to determine any application after the expiry of the period specified for the WRUA to comment on the application.

29. Public notification of permit applications

(1) The Authority will cause to be published monthly in a national newspaper of wide circulation a list of all the permit applications that fall into Permit Category C and D.

(2) The Authority shall display a notice of all applications received, within the region, at the District Commissioner's, District Officer's, Chief's, Authority's regional, subregional, and district agency offices at the end of each month.

(3) The Authority shall display at the Sub Regional Office a notice of all applications received by the Authority, within each sub-region, at the end of each week.

(4) The public notification will state the name of the applicant, the water resource for which the application has been made, the quantity and purpose for which the application has been made, the land registration number, the name of the nearest market centre and any additional details that the Authority may consider relevant to the public with respect to the permit application.

30. Objection to permit application

(1) Any person may raise an objection in writing to the Authority stating the grounds for the objection, to any permit application.

(2) The objection shall be lodged with the Authority, and copied to the WRUA, within thirty days of the public notification of the permit application.

(3) The Authority shall acknowledge receipt of an objection by writing to the applicant and the objector within fourteen days of receiving the objection.

(4) The Authority shall notify the objector in writing within thirty days of its decision with respect to the application.

31. Site meeting

(1) Where any objections have been lodged against a particular permit application, the Authority may undertake a site meeting with relevant stakeholders and WRUA, (if one exists), at the particular place for which the application was made before determining the permit application.

(2) The Authority shall give fourteen days notice to all relevant parties and WRUA, (if one exists), notifying them of the date and location of the proposed site meeting.

(3) The site meeting in sub-rule (1) shall be open to the public.

32. Rejection of application

Where the Authority rejects an application, it shall within thirty days of making the decision, notify the applicant, and any objector(s) to the application, of its decision, notify the applicant, and any objector(s) to the application, of its decision in writing.

33. Authorisation to construct works

(1) Upon the approval of an application for a water use permit, the Authority shall issue an authorisation to construct works in the prescribed Form WRMA 004 set out in the Twelfth Schedule.

[Subsidiary]

(2) The authorisation to construct works signifies the commitment by the Authority to issue a valid water use permit if the conditions stated on the authorisation are fulfilled.

(3) The period of time for completion of the works shall be specified in the authorisation.

(4) Failure to complete works, within the specified time, may result in the cancellation of the authorisation, unless a time extension has been applied for.

34. Limitations of authorisation

An authorisation shall not authorise the applicant to commence abstraction or the proposed use of the water until the conditions governing the authorisation are certified as having been met.

35. Conditions of authorisation

(1) The Authority may state on the authorisation any conditions which it deems appropriate after considering the nature of the body of water concerned and the works to be constructed.

(2) It shall be the responsibility of the applicant to fulfil all the conditions imposed in the authorisation at the applicant's cost within the period of time stated on the authorisation.

(3) Failure to comply with the conditions of the authorisation shall be sufficient cause for the suspension or cancellation of the authorisation.

36. Extension of authorisation

(1) Where the works are not complete within the time limited by the authorisation, then a progress report shall be submitted to the Authority in lieu of a completion certificate and the applicant may apply for an extension of time using the prescribed Form WRMA 005 set out in the Twelfth Schedule, which shall be considered on such terms as the Authority may specify.

(2) An extension of the period of authorisation may be granted for a maximum of twelve months after the initial authorisation period.

(3) An extension for a period beyond twelve months shall be subject to adequate and reasonable justification or proof of satisfactory and continuing progress.

37. Register of authorisations and permits

(1) The Authority shall maintain a register of authorisations and a register of permits in the prescribed Form set out in the Twelfth Schedule for each particular resource.

(2) A person may obtain a copy of the register of authorisations or register of permits upon payment of the prescribed fee set out in the First Schedule.

38. Completion certificate

(1) Upon the expiry of the time specified by an authorisation or before the expiry of the specified time if the construction is sooner completed, the applicant shall submit to the Authority a completion certificate in the prescribed Form WRMA 008 as set out in the Twelfth Schedule.

(2) Upon receipt of a completion certificate the Authority shall within twenty-one days of the receipt inspect the works to ascertain that all the special conditions stated on the authorisation have been fulfilled to its satisfaction.

(3) The inspection of the works shall be undertaken by a water resources inspector or by a person authorised by the Authority.

[Subsidiary]

(4) Where the inspector of the works is not satisfied with the completion status of the works, then the inspector shall issue an order within fourteen days detailing steps that shall be taken to bring the works to a satisfactory condition.

(5) Where the inspector of the works is satisfied that the works are complete, the Authority shall issue a permit in the prescribed Form WRMA 010 set out in the Twelfth Schedule within twenty-one days of inspection.

39. Water use permit validity and requirement for fees

(1) The permits issued for all types of water use shall be valid for a period not exceeding five years.

(2) A permit applicant shall be required to pay the prescribed permit fees for the permit validity period set out in the First Schedule before a valid permit can be issued.

(3) Failure to pay the appropriate fee may be used as a basis for revocation of approval for water use.

40. Conditions of permit

(1) The Authority may impose on the permit any special conditions which are deemed appropriate after considering the nature of the body of water and the works constructed.

(2) The permit holder shall be responsible for the fulfilment of all the conditions imposed in the permit.

(3) Failure to comply with the conditions may be used by the Authority as a basis for cancellation of the permit.

(4) A permit holder shall be required to maintain a record of all water abstracted, diverted, stored or discharged, giving the date, time, quality and quantity and methods of such abstraction, diversion, storage, or discharge and the purpose or purposes for which such water was used, and such records shall be furnished to the Authority at such times as it may demand them.

41. Transfer of permit by permit holder

A permit holder may apply to the Authority for the transfer of the permit to another person by submission of the prescribed Form WRMA 013 set out in the Twelfth Schedule duly completed.

42. Variation of permit by permit holder

(1) A permit holder may apply to the Authority for variation of the permit by submission of the prescribed Form WRMA 012 set out in the Twelfth Schedule as provided for in section 40 of the Act which includes the activities listed in the Fifth Schedule.

(2) Where the variation does not result in a change in the category of water use, the Authority shall within thirty days issue a revised permit.

(3) Where the variation results in a change of the category of water use, the permit holder shall be required to reapply for another permit.

(4) Any person who fails to notify the Authority of the variation of the permit status commits an offence and shall be liable to a fine not exceeding ten thousand shillings or imprisonment for a term not exceeding three months, or to both.

43. Variation or cancellation of permit by the Authority

(1) The Authority may vary or cancel a permit as provided for in sections 35 to 39 of the Act.

[Subsidiary]

(2) The permit holder shall respond within thirty days showing cause to the Authority as to why the permit should not be varied or cancelled.

(3) In order to give effect to the suspension, cancellation or variation of any permit, the Authority may take any appropriate measures for enforcement including the confiscation of equipment or plant, or removal of works, any costs incurred by the Authority in the enforcement measures shall be recoverable from the permit holder.

(4) The Authority shall notify the WRUA of any permit variations or cancellations within thirty days.

44. Renewal of permit

(1) A permit holder shall apply for the renewal of a permit by submitting the Form WRMA 011 set out in the Twelfth Schedule, with the prescribed fees for renewal and any water use charge arrears within three months before the expiry of a permit.

(2) Any late submission of the application for the renewal of permit will attract a penalty of five hundred shillings per month.

(3) The Authority shall inspect the works before processing the application for renewal.

(4) The Authority may impose new or vary existing permit conditions as necessary in response to causes as stated in section 35(1) of the Act.

(5) Where the permit holder does not apply for the renewal of the permit, the Authority shall, on expiry of the permit, initiate cancellation in accordance with section 38 of the Act.

45. Register of approved water users, water uses and permits

(1) The Authority shall maintain a register of approved water users, water uses and permits as provided by section 43 of the Act.

(2) A person may obtain a copy of the register of approved water users, water uses and permits upon payment of the prescribed fee set out in the First Schedule.

46. Limitation of liability of Authority with respect to approved water uses and permits

The fact that an authorisation or permit is given shall not be a defence to any civil action or to a criminal prosecution under any other legislation.

47. Public notification of authorisations and permits

(1) The Authority shall display on the notice board, at its offices and at the offices of the Chiefs, a list of notifications on authorisations, permits and cancellations, within their respective areas of jurisdiction.

(2) The list shall include a summary of the information pertaining to the water activity.

(3) Any person wishing to obtain full details of a particular permit shall request for the details by the prescribed Form WRMA 014 set out in the Twelfth Schedule and pay the prescribed fee as set out in the First Schedule.

48. Requirements to meet other Rules and Acts

The right of a permit holder shall, notwithstanding anything stated in the authorisation or permit, be subject to and conditional upon the compliance with the provisions of the Act and any other statutory requirements.

[Subsidiary]

PART III – SURFACE WATER

49. Normal flow and flood flow

(1) For the purposes of this Part, “**flood flow**” is defined as any flow that exceeds the Q_{80} flow value and “**normal flow**” is defined as any flow that is less than the Q_{80} flow value.

(2) The Q_{80} flow value is the flow value that is equalled or exceeded eighty percent of the time.

(3) The Q_{80} flow value shall be derived from a naturalised flow duration curve, preferably derived from daily flows.

50. Declaring a watercourse

(1) The Authority may, with reasonable cause, and after public consultation declare a natural watercourse not to be a watercourse or a constructed channel to be a watercourse for the purposes of water resources management.

(2) When a body of water has changed into a new course the Authority shall recognise the new course to be a watercourse and shall require the original course to be retained as a flood channel.

51. Boundary of properties defined by a watercourse

Where owing to any natural events, authorised or unauthorised works being constructed on a water body, a body of water which constitutes the boundary of two or more properties ceases to flow between or to separate such properties or has changed into a new course, the boundaries of such properties shall, unless readjusted by mutual agreement between the parties concerned, remain as before.

52. Wetlands

(1) Any portion of land in excess of one hectare which is naturally subject to seasonal or permanent flooding and has the ecological characteristics of a swamp or marsh shall be considered to be a wetland for purposes of these Rules.

(2) The Authority may by public notification and with good cause, declare any portion of land less than one hectare to be a wetland for purposes of water resources management.

(3) The landowner or legally authorised operator of the land on which a wetland is situated is required to apply to the Authority for approval for any proposed or existing developments such as drainage, discharge into or construction that would affect the wetland.

(4) Whenever any proposal for the drainage and reclamation of a swamp involves the subsequent use by the applicant of all or any of the water conserved by the drainage or reclamation of such swamp, the applicant shall submit an application for a permit for the diversion, abstraction, storage or use of such water with a hydrological assessment report and environment impact assessment.

(5) No works involving the drainage of a swamp shall deprive any lawful water user of reasonable access to water except by agreement or on payment of compensation, or on supplying water from other sources or by other means, and the applicant concerned shall submit to the Authority all plans and documents showing the proposals to provide such water user with access to water, and any agreements to this effect, and, if the proposals include any works for supplying such water user with water, submit an application for a permit.

53. Allocation of water for irrigation

- (1) In allocating water for irrigation, the Authority shall—
 - (a) give priority to subsistence irrigation; and
 - (b) be guided by crop water requirements in the area, and the efficiency of water use.

(2) When considering aggregate water demand for subsistence irrigation, the Authority may declare by public notification for each catchment area or part thereof an upper limit for the allocation of water either in aggregate or for any one permit where the allocation is shared among more than one household.

54. Prior right to water for storage

The right to store water shall be subject to prior right to its uninterrupted flow for as much as it is required for actual and beneficial use, and to the obligations imposed by the Act.

55. Need for storage

The Authority may require a water use permit applicant to develop adequate storage in respect of the application for water use.

56. Classification of dams

(1) Dams shall be classified according to the criteria set out in Table 1, in the Fourth Schedule.

(2) When establishing the class of a dam the criterion resulting in the higher risk class will prevail.

57. Dam to be designed by a qualified water resource professional

A dam shall be designed and supervised by the appropriate category of qualified water resource professional as set out in Table 2, in the Fourth Schedule.

58. Dam to be constructed by a registered dam contractor

A dam shall be constructed by the appropriate category of contractor as set out in Table 3, in the Fourth Schedule.

59. Dam safety inspection

(1) Every dam owner shall ensure that the dam is inspected according to the criteria given in Table 4 in the Fourth Schedule and the inspection report prepared and submitted to the Authority.

(2) Compliance with dam inspection requirements shall be among the conditions to be considered before permit renewal is processed where dams are involved.

60. Minimum net freeboard

(1) The net freeboard for Class A dam shall not be less than 0.6 m.

(2) The net freeboard for Class B and C dams shall not be less than 1.0 m or as otherwise specified by the Authority on a case by case basis.

61. Minimum spillway design flood

(1) The minimum acceptable return period for the design of a dam spillway shall be as provided in Table 5, set out in the Fourth Schedule.

[Subsidiary]

(2) The Authority may require a higher return period with respect to the conditions and risks associated with each site.

62. Release and use of stored water

(1) A permit holder who has a permit to store or impound water from any body of water or the operator, may, with the approval of the Authority, turn the water so stored into a natural watercourse, and may, subject to the water so stored being appurtenant to the land upon which it is to be utilised, and subject to the conditions of the authorisation or permit authorising the diversion or abstraction herein afterwards mentioned, at a point downstream of the point of storage, divert or abstract from the body of water into which the stored water is turned the quantity of water so turned, subject to such deductions for evaporation and seepage as the Authority may, from time to time, order.

(2) A permit holder, who has a permit to store or impound water from any body of water, or the operator before turning water into a natural watercourse as aforesaid, shall give to the Authority and to all persons entitled to use water from any part of the body of water between the point of release of the stored water and the points of utilisation of the said water such notice of the use of the body of water for the purpose aforesaid and particulars regarding the time during which it will be turned into the body of water, the rate of discharge of the stored water and other matters as the Authority may, from time to time, require.

(3) No other permit holder other than the permit holder who releases the stored water as aforesaid, or the operator, shall divert or abstract any proportion of the flow of the body of water due to the water so released, nor shall any permit holder impound or store, except to such an extent as may be imposed upon him by the maximum capacity of the works for discharging the flow of the body of water through or around the works which abstract the flow of the water, any proportion of the flow of the body of water due to the water so released.

63. Compensation flow

A permit holder storing or arresting the flow of water by means of a dam or weir located on a body of water or watercourse shall unless otherwise decided by the Authority, provide, at a depth measured from the top of the dam or weir and to be specified by the Authority in each particular case, an outlet, controlled by a valve, sluice gate or other device, which shall be capable of being operated at all stages of the flow of such body of water or watercourse so that the normal flow, or other flow as required by the Authority, of such body of water or watercourse can be passed through or around such dam or weir at all stages:

Provided that where the normal flow of the body of water or watercourse is automatically by-passed around the reservoir, without any storage or arresting of the flow of the water being effected such outlet works need not be constructed.

64. Dam design report

(1) Any application for a permit to construct a Class A, B or C dam shall be accompanied by a dam design report in the Form prescribed in the Second Schedule, for approval by the Authority.

(2) The level of detail in the dam design report shall be dependent on the class of dam under consideration.

65. Dam construction progress report

A permit applicant, shall upon commissioning the construction of a dam, submit a dam construction progress report at such intervals determined by the Authority.

66. Dam completion and dam operation reports

(1) Upon the completion of construction, the permit applicant shall submit to the Authority a dam completion report, in the prescribed Form set out in the Second Schedule and completion certificate.

(2) The issuance of the permit shall be conditional upon the approval of the dam completion certificate and dam operation report by the Authority.

67. Notice downstream

(1) The operator of any dam shall be responsible for taking adequate measures detailed within the approved dam operation report to notify the Authority and persons downstream likely to be affected in the event of any discharge from the dam whether caused by dam failure, or intended releases from the dam that might result in damage downstream.

(2) The operator of any dam shall be responsible for taking adequate measures detailed within the approved dam operation report to protect persons, infrastructure and environment downstream likely to be affected in the event of any discharge from the dam whether caused by dam failure, or intended releases from the dam that might result in damage downstream.

(3) Any person who fails to follow the steps detailed in the approved dam operation report shall be guilty of an offence in the event of such discharge and shall be liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months, or to both.

68. Failure of, or damage to, a dam to be reported

(1) The permit holder or operator or the person having the control of any dam, shall in the event of serious damage or failure, submit an interim dam damage or failure report within three days, and a detailed report in the prescribed Form set out in the Second Schedule to the Authority within twenty-one days of the event.

(2) Any person who fails to submit the dam damage or failure report commits an offence and shall be liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding three months, or to both.

69. Hydropower

(1) Every permit to develop an amount of power less than the full hydropower potential of the site may be subject to special conditions if the Authority considers that the full power development of the site at a later date may be required.

(2) Where an existing permit holder is unable, or unwilling, to enlarge the works to develop the full hydropower potential of the site, and it is considered by the Authority to be in the public interest to do so, the Authority may cancel the authorisation or permit and authorise the works to be carried out by another person.

(3) When action is taken under subrule (2), the former operator shall be entitled to compensation by the new operator.

(4) For the purpose of ascertaining the hydropower potential or developed under any authorisation or permit, the Authority shall have free access to all reports, plans and records and may request for any other information or data as required.

(5) A permit issued for hydropower purposes, shall at all times be subject to any enactment affecting the construction and operation of works for the supply of power therefrom.

[Subsidiary]

70. Surface water data

The Authority shall maintain a surface water database from which data shall be accessible during normal office hours by any person on the payment of the prescribed fees listed in the First Schedule.

71. Works associated with fish movement for protection and control of fish

(1) Where, in the opinion of the Authority, after consultation with the fisheries officer, it is necessary for the free movement of fish upstream or downstream of any dam or weir on any body of water, the Authority may require a permit applicant or order a permit holder to provide in such dam or weir a fish pass, fish ladder or other structure, approved by the Authority, by which fish may move freely up or down such a body of water.

(2) Notwithstanding anything contained in these Rules, the Authority may, on the application of any person, authorise the construction or erection in a body of water—

- (a) works of a temporary nature which are designed solely for the purpose of improving the conditions of fish life or the facilities for fishing, in such body of water provided such works will not have the effect of raising the normal level of the body of water more than one metre; or
- (b) fish ladders or other means of ingress and egress for fish provided such works do not cause any obstruction in the flow of such body of water.

(3) An application under this Rule shall be in the prescribed Form WRMA 001 set out in the Twelfth Schedule and shall be submitted to the Authority through the fisheries officer.

PART IV – GROUNDWATER

72. Groundwater development authorisation

(1) All applicants intending to abstract groundwater shall make an application for the approval of the Authority in the prescribed Form WRMA 001 set out in the Twelfth Schedule.

(2) Upon receipt of the application, the Authority shall determine the category of the application.

(3) Where the Authority determines that the application falls under Category A for a well, and the method of abstraction does not include motorised pumping, the Authority shall, after considering the application, approve upon such conditions as it may deem necessary or refuse the application.

(4) Where any borehole or well is intended to be equipped with a motorised pump, the application shall be accompanied by a hydrogeological assessment report in the prescribed Form set out in the Second Schedule.

(5) Before any well or borehole is replaced, deepened or widened, the owner of the well or borehole, or his duly authorised representative, shall file with the Authority an application for the authority to carry out such replacement, deepening or widening of an existing well or borehole, for any water use category.

(6) Any well or borehole which encounters, in the course of drilling, collapse, loss of tools, or other associated drilling problems, hereinafter referred to as down hole problems, but exclude a dry borehole, the owner of such a well shall drill, without further reference to the Authority a replacement borehole, whose site shall not be more than fifteen metres, from the previously approved site.

[Subsidiary]

(7) Before any well or borehole, after encountering down hole problems, is moved to a new site of more than 15 metres from the previously approved site, the owner of the borehole or well, or his or her duly authorised representative, shall file with the Authority an application for authority to move to the new site.

(8) Any person who contravenes the provisions of this Rule shall be guilty of an offence and shall be liable to a fine not exceeding ten thousand shillings or imprisonment for a term not exceeding three months, or to both.

73. Regulation of groundwater development

(1) For the regulation of the groundwater development, the Authority will determine in the allocation plan for a given aquifer or part thereof, the spacing of boreholes, or wells to be equipped with a motorised plant and will be guided by—

- (a) existing borehole or well spacing;
- (b) individual aquifer characteristics, including water quality;
- (c) existing aquifer use; and
- (d) existing bodies of surface water.

(2) The allocation plan shall be available and accessible to the public during normal working hours from any of the Authority offices.

74. Borehole, and well test pumping

(1) All new boreholes, and wells to be equipped with motorised plant, shall be subjected to test pumping.

(2) The test pumping shall comprise a continuous and constant rate pumping test of not less than twenty-four hours duration and recovery duration of not less than twenty hours, or as otherwise stipulated by the Authority.

75. Supervision of works

All boreholes and wells to be equipped with a motorised plant shall be constructed under the supervision of a qualified water resource professional.

76. Borehole or well completion record

Upon the completion of the construction of a borehole, or well to be equipped with motorised plant, the applicant shall submit to the Authority a borehole or well completion record in the prescribed WRMA Form 009A or 009B set out in the Twelfth Schedule, respectively, in conjunction with the completion certificate, within thirty days of completion of works.

77. Award of permit or approval

(1) The approval to abstract groundwater under Category A for a well, shall be issued on receipt of the application or, as determined by the Authority on verification of the details provided in the application.

(2) In the event that the Authority determines that verification on site is necessary, the Authority shall undertake the verification within twenty-eight days.

(3) Approval to abstract groundwater from a borehole, in Category A, as defined in the Fifth Schedule shall not be issued until after the Authority has analysed the data provided in the prescribed borehole completion record Form WRMA 009A set out in the Twelfth Schedule, where applicable.

[Subsidiary]

(4) A permit to abstract groundwater from boreholes, or wells intended to be equipped with motorised pumps in Categories B, C, or D, as defined in the Fifth Schedule shall not be issued until after the Authority has analysed the data provided in the borehole or well completion record Form WRMA 009A or 009B, respectively.

78. Artificial ground water recharge

(1) No person shall undertake to construct works for the purposes of conducting the artificial groundwater recharge of an aquifer, or not in a groundwater conservation area, unless the person has been duly authorised by the Authority so to do.

(2) Any person applying for the necessary authority in compliance with sub-rule (1) shall give particulars relative to the application as the Authority may require, and the Authority may, after consideration of the application grant upon such conditions as it may deem necessary or refuse the application.

(3) Any person who contravenes the provisions of this Rule shall be guilty of an offence and shall be liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding three months, or to both.

79. Monitoring data

The Authority may, from time to time and in carrying out its responsibilities towards groundwater resources management require any person or entity, permit holder or operator, to provide it with abstraction, water levels, water quality or any other specified information within a reasonable time or on a regular basis.

80. Ground water data

The Authority shall maintain a groundwater database from which data shall be accessible during normal office hours to any person upon the payment of the prescribed fee set out in the First Schedule.

PART V – WATER QUALITY MONITORING AND EFFLUENT DISCHARGE**81. Control of water pollution**

(1) No person shall discharge or apply any poisonous, toxic, noxious or obstructing matter, radioactive waste or other pollutants or permit any person to dump or discharge such matter into any water resource unless the discharge of such poisonous, toxic, noxious or obstructing matter, radioactive waste or pollutant has been treated to permissible standards authorised by the Authority.

(2) Subsection (1) of this section shall also apply to all discharge activities started before commencement of these Rules.

(3) Any person who contravenes the provisions of this Rule shall be guilty of an offence and shall be liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding three months, or to both.

82. Effluent discharge into any water resource

(1) No person shall—

- (a) discharge effluent into a water resource without a valid discharge permit issued by the Authority;
- (b) discharge waste water or effluent, which does not meet the water quality requirements stipulated in the effluent discharge permit;
- (c) generate and discharge effluent onto land or into any water resource without compliance with an approved Effluent Discharge Control Plan; or

[Subsidiary]

- (d) discharge into any water resource effluent from a sewage treatment plant, trade or industrial facility without a calibrated flow measuring device approved by the Authority.

(2) The right of a permit holder or his authorised operator, to discharge effluent shall be exercised in accordance with the conditions in the permit and shall be limited to the quantity of pollutants, stipulated in the permit.

(3) Any person who contravenes the provisions of this shall be guilty of an offence and shall be liable to a fine not exceeding three months, or to both.

83. Water quality requirements

The Authority will be guided by the following criteria, in determining the water quality requirements for each application for an effluent discharge permit—

- (a) the capacity of the receiving water resource to assimilate the effluent without violating the water resource quality objectives for that water resource;
- (b) the toxicity and persistence of the pollutant(s); and
- (c) any other criteria as determined from time to time by the Authority.

84. Effluent discharge records

(1) Any person discharging effluent is required to maintain records of effluent discharge control plan approved by the Authority.

(2) The effluent discharge records shall be submitted to the Authority, on a quarterly basis.

(3) The effluent discharge records shall be maintained and shall be available for inspection by the Authority at reasonable times.

85. Effluent discharge control plan

Each application for an effluent discharge permit shall contain an effluent discharge control plan in the prescribed manner in the Second Schedule.

86. Authorising effluent discharge applications

Where the Authority is satisfied that the effluent discharge to the water resource will meet the limits stipulated by the Authority, the Authority shall issue an authorisation and impose the necessary conditions including volume and effluent discharge requirements.

87. Award of effluent discharge permits

Upon inspection and approval of the authorised effluent discharge works, the Authority shall issue a water (effluent discharge) permit and shall impose conditions including limits and monitoring frequency for volume and quality of effluent discharge.

88. Spillage

(1) No person shall wilfully and deliberately allow any substance to spill out into any water resource or onto land where such spillage may or is likely to contaminate any body of surface or groundwater.

(2) In the event of accidental spillage and where such spillage may or is likely to contaminate any body of surface or groundwater, the owner of the spilt substance shall

[Subsidiary]

immediately inform the Authority of the accident and take immediate and adequate measures to prevent spread of the spillage and its likely adverse effects to water resources.

(3) The Authority shall upon receiving information on spillage, take measures to notify the public of the spillage and cause action to be taken to deal with the spillage.

(4) The costs incurred by the Authority with regard to notifying the public and dealing with the spillage shall be recoverable from the owner of the spilt substance.

(5) Any owner of a spilt substance who fails to inform the Authority immediately after spillage or fails to take immediate action to prevent spread of the spillage and its likely adverse effects to water resources shall be guilty of an offence and shall be liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding three months, or to both.

89. Water quality monitoring

(1) The Authority shall inspect and sample any sources of water pollution.

(2) No prior notice of inspection for water quality monitoring of any premises shall be required.

(3) Any person, who obstructs, constrains or prevents a water resource inspector who has sufficient identification from undertaking a pollution control inspection shall be guilty of an offence and shall be liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding three months, or to both.

90. Water quality and effluent discharge data

The Authority shall maintain a water quality database that will include effluent discharge data, which shall be accessible during normal office hours to any person upon the payment of the prescribed fees listed in the First Schedule.

91. Pollution control enforcement

(1) Where a water resource inspector intends to take a water quality sample for purposes of prosecution, procedures listed in the Eleventh Schedule shall apply.

(2) The prescribed procedures shall not prevent the Authority from installing automatic water quality monitoring and sampling equipment for any purpose as desired by the Authority.

92. Non-point source pollution

The Authority may, with good cause, order any person or entity being the owner, occupier or having jurisdiction over a piece of land to put in place adequate measures for the safe disposal of solid or other wastes including agricultural chemicals present on the land which may form a risk to the water resource quality.

PART VI – WORKS**93. Inspection of works prior to, during and post construction**

The Authority may undertake an inspection or series of inspections of the site associated with a proposed, ongoing, existing or abandoned point of water works.

94. Temporary works

(1) Any person constructing temporary works shall apply for a permit from the Authority to divert, abstract, impound, obstruct, store or use water to such extent only as

[Subsidiary]

may be necessary for such construction, and shall do so at such times and in such manner as to interfere as little as possible with the works of other operators and to cause as little damage as possible to the property of any person.

(2) Any person undertaking construction works shall be liable for interference or damage resulting from the works.

(3) All temporary works shall be removed by the responsible permit holder within a period of three months, or such other period as the Authority may specify, from the date of completion of the works authorised or from the date of expiry of the authorisation (whichever is earlier); provided that any quarries, borrow-pits, excavations, cuttings, tunnels or other temporary works which cannot be economically rehabilitated or removed shall instead be rendered safe in the interests of health and property by fencing or such other measure as the Authority may consider satisfactory.

(4) In the event that any temporary works are not removed, rehabilitated or rendered safe within the prescribed period, the Authority shall issue an order for the removal, rehabilitation or rendering safe of the works.

(5) Any person who fails to comply with the order shall be guilty of an offence and shall be liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding three months, or to both.

95. Abandoned works

(1) Abandonment or cancellation of an authorisation or permit or any part thereof shall not have the effect of relieving the owner of the land or undertaking to which the authorisation or permit is or was appurtenant of liability for any damage resulting from the works constructed, any defects or insufficiency in the works operated or maintained by the permit holder.

(2) The Authority may, within six months of the cancellation or expiry of an authorisation or permit, serve upon the permit holder or former permit holder an order for the disposal of all or any portion of the works previously used under the authorisation or permit.

(3) Any person who fails to comply with the order on abandoned works shall be guilty of an offence and shall be liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding three months, or both.

PART VII – CONDITIONS OF AUTHORISATION, PERMITS AND APPROVED WATER USES

96. Easement

Subject to the provisions of the Act, every application for an easement shall be made in the prescribed Form WRMA 002 set out in the Twelfth Schedule.

97. Compliance with the Environmental Management and Co-ordination Act

The Authority shall, where applicable require an applicant to show evidence of compliance with the provisions of the Environmental Management and Co-ordination Act.

98. Inspection of works

The Authority may place on any authorised water use. Authorisation or permit a schedule of inspection by a water resource inspector from time to time or at the completion of specified milestones during the construction of any works as specified by the Authority.

[Subsidiary]

99. Controlling and measuring devices

(1) Upon the commencement of these Rules, every Class B, C or D water user whether for water abstraction or effluent discharge shall be required to have installed a controlling device and measuring device for the accurate measuring of water abstracted, obstructed or diverted and for effluent discharged within two years of the commencement.

(2) A Class B, C or D water user shall inspect, or cause to be inspected, at such time intervals as may be necessary, any controlling or measuring device prescribed in the permit in order to ensure that the quantity of water abstracted, diverted or stored, or effluent discharged is accurately measured.

(3) Every adjustable or controlling device, including any sluice gate, valve or other works, where such device or work is used to control the quantity of water diverted, abstracted or stored, or effluent discharged shall be provided by the permit holder with a means of locking it sufficiently to prevent any unauthorised person from interfering with it.

(4) The keys of such locking device or works shall be produced forthwith to an officer of the Authority when required.

(5) Where necessary, the locking device shall be in such a way that both the Authority and permit holder's presence will be required to open it.

(6) Any measuring device used for the purpose of measuring abstraction or effluent discharge shall be able to be calibrated and such calibration results shall be made available to the Authority upon request.

(7) The calibration of the flow measuring device shall be done by the Authority or an authorised officer of the Authority.

(8) Where there is doubt over the accuracy of a flow measuring device the Authority may require the accuracy of the device to be verified and where necessary the device may be recalibrated at the cost of the permit holder.

(9) A measuring device shall be substantially in the form of a calibrated meter for piped or pumped systems and a calibrated weir or flume for open channel abstraction or discharge systems, or any other appropriate device approved by the Authority.

(10) The controlling device shall be located at the point where the water is abstracted, diverted or the effluent discharged or at a point approved by the Authority.

(11) Where a water user fails to comply with any order given under this Rule, the Authority may take such steps as it may consider necessary to execute the order, and any expenses incurred in taking such steps shall be recoverable as a civil debt from the water user or person upon whom such order is made.

100. Limitation of flow or quantity

(1) Notwithstanding the quantity of water granted by the permit, no permit holder shall abstract or divert more water from any body or bodies of water than can, for the time being, be beneficially used by in accordance with the terms of the permit.

(2) Having due regard to the priority of the purpose for which the water is granted, a permit holder shall, on being so directed by the Authority—

- (a) abstract, impound, or divert the quantity of water which may be necessary for his or her purpose at such times and in accordance with a schedule of abstraction that encompasses all other permit holders on the same body of water, or other body of water, as may, in the opinion of the Authority secure the most equitable use of water; or

[Subsidiary]

- (b) discharge the quantity of water in accordance with a schedule of releases that encompasses all other permit holders on the same body of water, or other body of water, as may, in the opinion of the Authority secure the most equitable use of water.

101. Collection and submission of abstraction, water quality and effluent discharge data

(1) Every Class B, C or D permit holder is required to maintain a record of the daily abstraction and or effluent discharge, in cubic metres per day.

(2) The record shall indicate the permit number, date and volume of abstraction and or discharge.

(3) The records for abstraction and or discharge for the preceding twenty-four months shall be available for inspection by the Authority.

(4) The Authority may require an applicant for water use, or applicant for permit renewal to take water quality samples and cause the samples to be analysed at the applicant's cost in a water quality laboratory approved by the Authority.

102. Storage

The Authority may require an applicant for water use permit for any purpose to develop adequate storage facilities such that abstraction is not undertaken from normal flow or during periods of time that the Authority may impose restrictions.

103. Airline

(1) Every permit applicant or permit holder, unless exempted by the Authority, shall install an airline in the boreholes, such that the measurement of water levels is possible by the Authority or any authorised person.

(2) Failure to install an airline shall be an offence.

PART VIII – WATER USED CHARGES

104. Water use charges

(1) Any person in possession of a valid permit or who is required to have a valid permit for water use, shall be required to pay to the Authority water use charges on the basis of the water abstracted, diverted, obstructed or used including energy derived from a water resource at the appropriate rate set out in the First Schedule.

(2) The payment of water use charges shall be made to the Authority by the 15 day of April, July, October and January for water used in the preceding quarter of the calendar year.

(3) The payment may be remitted to the Authority by monthly instalments, where the permit holder so desires.

(4) The Authority shall make a public notification whenever any changes are made in the timing and manner of payment.

105. Variation of water use charges

(1) The Authority may review the water use charges when necessary and the reviewed charges shall be published in the *Gazette*.

(2) In reviewing the water use charges, the Authority will be guided by—

- (a) inflation rate;
- (b) cost of managing the water resources and water catchment areas;

[Subsidiary]

- (c) the use of water charges as a tool for water demand management;
- (d) the use of water as a social and economic good; and

any other criterion that the Authority may consider appropriate.

106. Self-assessment of water used

(1) The permit holder or any person who is required to have a valid permit shall make a fair assessment of the quantity of water used with respect to each permit.

(2) The permit holder shall submit the assessment of water used together with supporting records and calculations to the Authority on WRMA Form 015 as set out in the Twelfth Schedule.

(3) Where the permit holder does not submit a fair assessment of the quantity of water used the Authority shall make a fair estimate of the quantity of water used.

(4) The Authority shall be guided by the allocation in the permit and by observations and evidence of water use activities when making the assessment in subrule (3).

(5) Where the assessed quantity of water used determined by the water user or by the Authority is 25% more or less than the permitted allocation taking into account seasonal variations, the Authority may re-evaluate and vary the permitted allocation.

(6) Where the permit holder and the Authority cannot agree on the assessment of the quantity of water used, then the opinion of the Authority shall prevail and any payment due shall be made.

(7) Where, after payment, the permit holder is dissatisfied with the Authority's assessment, the permit holder may lodge a complaint in accordance with Rule 5 of these Rules.

107. Time limitation on arrears

(1) Where the Authority discovers that a permit holder, or a person who is required to have a water permit, or who is obliged to pay water use charges from the entry into force of these Rules has not done so, the Authority shall be entitled to charge arrears, for a period not exceeding twelve months.

(2) Where the Authority discovers that a permit holder, has under declared the water quantity used, from the commencement of these Rules, the Authority shall be entitled to charge for the under declared water quantity used in arrears, for a period not exceeding twelve months.

108. Water resource conservation charge

An additional five percent shall be added to the water use charges for any water abstraction or diversion within a groundwater conservation area or protected area *gazetted* under the Water Act to cover for the cost of greater management required for such areas.

109. Penalty for over-abstraction

Where the water abstracted exceeds the permitted amounts by over five percent, the excess shall be charged at a penalty rate of one shilling per cubic metre.

110. Incentive for flood water storage

(1) Any person in possession of a valid permit who has created and uses flood water storage facilities shall be entitled to a discount on water use charges.

[Subsidiary]

(2) The value of the discount shall be a maximum of ten percent in the case of storage that equals or exceeds ninety times the daily water demand and shall otherwise be calculated on a pro rata basis.

111. Penalty for lack of measuring device

Where the assessment of the water used is not based on continuous measurement by means of a calibrated and appropriately sealed flow measuring device, a penalty of ten percent shall be charged on the full amount of water used.

112. Appointment of revenue collection agents

The Authority may appoint revenue collection agents and shall pay them for the services rendered.

113. Modes of payment of water use charges

Water use charges may be paid directly to the Authority or to an appointed revenue collection agent.

114. Interest for late payment

Late payment of water use charges shall attract a simple interest charge of two percent per month until the amount is paid in full.

115. Failure to pay

(1) Failure to pay the appropriate water use charges shall be a breach of the conditions of a permit and may be a basis for revocation of the permit.

(2) The Authority may within fourteen days, of the notice given to the permit holder, suspend, initiate the cancellation process or vary in whole or in part the permit where the permit holder fails to pay the full water use charges for any one payment period of one hundred and twenty days after the due date.

(3) Any permit holder whose permit has been suspended, cancelled or varied due to non-payment shall not be eligible to reapply for a lift of suspension, or a new permit or amendment until the outstanding amount and any associated cost is paid in full.

(4) Any application for a new permit or amendment of an existing permit shall not be considered where the permit holder is in arrears regarding any payments.

PART IX – CONSERVATION OF RIPARIAN AND CATCHMENT AREAS**116. Determination of the riparian land**

(1) “**Riparian land**”, as defined in Part I of these Rules shall not imply a change of ownership but impose management controls on land use for water resource quality as defined in these Rules.

(2) Unless otherwise determined by a Water Resources Inspector, the riparian land on each side of a watercourse shall be defined as a minimum of six metres or equal to the full width of the watercourse up to a maximum of thirty metres on either side of the bank.

(3) The width of the watercourse shall be equal to the distance between the top edges of its banks.

(4) The riparian land shall be measured from the top edge of the bank of the watercourse and this shall also apply to seasonal and perennial watercourses.

[Subsidiary]

- (5) Unless otherwise determined by a water resources inspector—
- (a) the riparian land adjacent to a lake, reservoir or stagnant body of water shall be defined as minimum of two metres vertical height or thirty metres horizontal distance, whichever is less, from the highest recorded water level;
 - (b) the riparian land adjacent to the eye of a spring shall be a minimum radius of three metres to a maximum radius of fifteen metres, measured from around the edge of the spring;
 - (c) the riparian land adjacent to the ocean is defined as a minimum of two metres vertical height or thirty metres horizontal distance from the high watermark, whichever is less.

117. Demarcation of the riparian land

(1) The Authority may with good cause or at the request of a riparian landowner demarcate the riparian boundary of any watercourse or body on any land at its own cost.

(2) When demarcating the riparian boundary, the Authority shall require the landowner to place permanent recognisable beacons at sufficient intervals to adequately represent the riparian boundary.

118. Proscribed activities on riparian land

(1) No person shall undertake the activities listed in the Sixth Schedule on riparian land unless authorised by the Authority in consultation with other relevant stakeholders.

(2) A riparian land owner or user may, upon showing good cause, request the Authority shall respond in writing within thirty days of receiving the request stating its decision.

(3) Any person who undertakes any of the proscribed activities on riparian land without authorisation by the Authority shall be guilty of an offence and shall be liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding three months, or to both.

119. Orders related to riparian land

(1) The Authority may instruct by an order, a riparian landowner or user, at his or her cost, to develop and implement a soil and water conservation plan.

(2) The Authority may instruct by order a riparian landowner or user, to desist from any proscribed activity or to improve the condition of the riparian land in the interests of meeting the water resource quality objectives.

(3) In requiring a riparian landowner or user to improve the condition of the riparian land, the Authority may facilitate support to undertake the required activities.

(4) Where the riparian landowner or user fails to comply with an order to develop a soil and water conservation plan, the Authority may cause such a plan to be developed.

(5) The Authority shall recover the cost of developing such a plan from the person or persons who have failed to comply with the order.

120. Soil and water conservation plan

(1) For the purposes of conserving the catchment and riparian areas, the Authority may by order or state as a condition on an authorisation or permit, require a person to prepare and implement a soil and water conservation plan.

(2) While preparing a soil and water conservation plan, the Authority or riparian landowner shall be guided by the criteria set out in the Sixth Schedule.

[Subsidiary]

(3) The soil and water conservation plan may be developed by the Authority, landowner, landuser, or Water Resource Users Association in consultation with the officer(s) in charge of agricultural and or environmental activities for the area.

(4) The soil and water conservation plan shall conform to the format laid out in the Second Schedule.

(5) Where in the opinion of the Authority the landowner or user has failed to comply with an approved soil and water conservation plan, the Authority may cause to be rectified, constructed or maintained sufficient soil and water conservation measures for the purposes of conserving water resource quality conditions.

(6) The Authority may recover the cost of these measures from the person or persons who have failed to comply with the soil and water conservation plan.

(7) Failure to comply with an approved soil and water conservation plan may be considered by the Authority as a basis for rejecting, suspending, cancelling or varying a water use permit.

(8) Any person who fails to comply with the soil and water conservation plan shall be guilty of an offence and shall be liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding three months, or to both.

PART X – CATCHMENT MANAGEMENT STRATEGIES

121. Establishment of catchment management strategies

The Authority shall formulate catchment management strategies provided for by section 15 of the Act which shall substantially follow the format set out in the Second Schedule.

122. Guiding principles for catchment management strategies

When establishing the catchment management strategy, the Authority shall be guided by the Act and the National Water Resources Management Strategy at any point in time.

PART XI – PROTECTED AREAS AND GROUNDWATER CONSERVATION AREAS

123. Process of identifying areas to be protected or designated as groundwater conservation areas

(1) Pursuant to sections 17 and 44 of the Act, the Authority may identify a catchment area, part of a catchment area or water resource to be identified as areas to be protected or designated as groundwater conservation areas if the Authority is satisfied that doing so is necessary for the protection of the water resource and its multiple uses.

(2) When identifying a protected area or groundwater conservation area, the Authority shall be guided by the criteria shown in the Sixth Schedule.

(3) The Authority shall in conjunction with relevant institutions and stakeholders, described the boundaries of any proposed protected area or groundwater conservation area for *gazettement*.

124. Management rules related to a protected area or groundwater conservation area

(1) The Authority shall, in conjunction with relevant institutions and stakeholders, establish management guidelines or plans that shall apply to each protected area or groundwater conservation area.

(2) The management guidelines or plans shall cover the conditions listed in the Sixth Schedule.

[Subsidiary]

125. Public consultation regarding areas to be protected or designated as groundwater conservation areas

The Authority shall undertake public consultation with respect to the establishment of areas to be protected or designated as groundwater conservation areas and the management guidelines or plans that shall apply with respect to those areas.

126. Failure to comply with the management rules for a protected area or groundwater conservation area

Any person who fails to comply with the *gazetted* management guidelines or plans shall be guilty of an offence and shall be liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding three months, or to both.

PART XII – THE RESERVE

127. Composition of the reserve

The reserve at all instances shall comprise of one element related to the quantity of the resource and the respective probability associated with that quantity and a second element related to the quality of the resource.

128. Reserve quantity

(1) Where information is available from the water resource records and on reserve water demand, the Authority shall establish the reserve and shall be guided by the estimates of the quantity of water required to satisfy the reserve water demand.

(2) Where water resource records are not available or where there are significant ambiguities, the Authority shall establish the reserve and shall be guided by—

- (a) ecological vulnerability;
- (b) vulnerability of population dependant on that water resource;
- (c) local observations with respect to the naturalised flows or water levels of minimum values observed during periods of prolonged droughts;
- (d) where water flow is known to be normally perennial, then the reserve quantity shall be sufficient to ensure perennial flow; and
- (e) consultations with the Water Resource Users associations if such exists.

129. Information on the protection of the reserve

(1) The Authority shall make the reserve information on water resources accessible to the public.

(2) Any person may make a verbal, written report or complaint to any office of the Authority within the relevant catchment area or to the Chief Executive Officer of the Authority if—

- (a) the person is unable to obtain sufficient water from the water resource for basic human needs as a result of the reserve being violated; or
- (b) as a result of the person's observations, the person considers that the ecology is threatened as a result of the reserve being violated.

(3) Each complaint or report registered with the Authority in regard to a violation of the reserve quantity or quality, shall be given a complaint number by the Authority which shall be used for purposes of monitoring the response to the complaint or report.

[Subsidiary]

(4) Where a complaint or report has been registered with the Authority in regard to a violation of the reserve quantity or quality, the Authority shall take measures within forty-eight hours to respond to the complaint or report and the Authority may take measures that include but are not limited to activities listed in the Seventh Schedule.

(5) The Authority shall within thirty days of each report of a reserve violation prepare a report detailing the nature of the reserve violation and the measures taken to restore the reserve.

(6) When the Authority considers that the reserve quantity and or quality is threatened, it shall cause to be placed in or near the water resource or in a public place frequented by the water users of a particular resource a legible signboard displaying the current condition of the resource and action required by the water users to safeguard the reserve.

PART XIII – MISCELLANEOUS

130. Categories of qualified water resource professionals

The categories of qualified water resource professional shall be as set out in the Eighth Schedule.

131. Registration and regulation of qualified water resource professional and qualified contractor

(1) No person shall carry out the work of a qualified water resource professional and no contractor under these Rules unless the person has been licensed by the Ministry.

(2) The Ministry shall establish and maintain a Ministerial Technical Advisory Committee at all times for the registration and determination of all matters regarding the conduct of qualified water resources professionals and qualified contractors under these Rules.

(3) The Ministerial Technical Advisory Committee shall comprise of not more than eight members including the Chairperson all of whom shall be appointed by the Permanent Secretary of the Ministry.

(4) Membership to the Ministerial Technical Advisory Committee shall comprise of a representative from the Authority, Water Services Regulatory Board, National Water Conservation and Pipeline Corporation, and National Irrigation Board.

(5) The Ministry shall set out administrative guidelines to govern the conduct of business of the Ministerial Technical Advisory Committee, and such guidelines may be revised from time to time as need arises.

(6) No final decision on the application for registration or conduct of qualified contractor or qualified water resources professional under these Rules shall be made except through a resolution of the Ministerial Technical Advisory Committee.

(7) A final decision of the Ministerial Technical Advisory Committee on the application for registration or conduct of a contractor or qualified water resources professional under these Rules shall be communicated to the concerned party within fourteen days from the date of the decision.

(8) Any qualified contractor or qualified water resources professional aggrieved by the final decision of the Ministerial Technical Advisory Committee shall appeal to the Water Appeals Board.

[Subsidiary]

132. Criteria for qualified water resource professional

The following persons only shall be entitled to apply for a qualified water resource professional licence—

- (a) a person who has graduated with a degree from any recognised university and who has had at least five years practical experience in the relevant profession; and
- (b) a person who is a registered member of the relevant professional institution of that profession.

133. Application to be licensed as a qualified water resource professional

(1) Any individual who provides or is proposing to provide professional services related to water resources shall apply to be licensed as a qualified water resource professional under the appropriate area of specialisation to the Ministry in the prescribed Form WRP 001 set out in the Twelfth Schedule.

(2) The conditions for licensing with the Ministry and information required by the Ministry may change from time to time.

134. Need for professional interview

The Ministry, may after receipt of an application for a qualified water resource professional licence, require the attendance before it of the applicant, and may examine or question him or her on any matter relevant to his or her application.

135. Issuance of professional water resource licence

(1) Where the Ministry is satisfied that the applicant is a qualified person to be licensed, it shall issue a licence for such period and on such conditions, as it may deem desirable.

(2) A qualified water resource professional shall be required to pay the prescribed annual license fee set out in the First Schedule. The payments shall be made to the Ministry no later than the end of the third month in each year.

(3) Failure to pay the licence renewal fee shall be a breach of the conditions of the licence and shall result in the licence being suspended in which case the person may not practice as a qualified water resource professional.

(4) A suspended licence may be reinstated upon the payment of all outstanding fees.

(5) Failure to renew the licence for a consecutive period of three years shall result in the revocation of the licence.

136. Compliance with professional codes of practice

(1) The codes of practice shall be developed and introduced by the Ministry after consultation with the relevant professional bodies to bring industry practices in line with best practices.

(2) All qualified water resource professionals shall comply with the codes of practice that shall be released from time to time by the Ministry.

137. Register of qualified water resource professionals

(1) The Ministry shall keep a register as set out in the Twelfth Schedule of all qualified water resource professional licenses issued under these Rules.

(2) The Ministry shall, once and not later than the 30th April in every year, publish in the *Gazette* a list containing the names and addresses of all licensed qualified water resource professionals.

[Subsidiary]

(3) The Ministry shall also publish in the *Gazette* all names that have been deleted from the register.

(4) Every qualified water resource professional shall inform the Ministry in writing within twenty-eight days of any change in particulars associated with the licence. Failure to notify the Ministry of any changes may result in disciplinary action.

138. Complaint made against a qualified water resource professional

(1) A complaint shall be made to the Ministry against any person licenced as a qualified water resource professional under these Rules where the water resource professional has—

- (a) become incapable of carrying out the work of a qualified water resource professional; or
- (b) become unfit, through any reason, to practice as a qualified water resource professional; or
- (c) failed to comply with the conditions of his or her licence or any provisions of the Act, or of these Rules.

(2) The Ministry shall hold an inquiry within thirty days of the complaint being lodged, and where after such inquiry the Ministry is satisfied that the complaint is justified it shall take disciplinary action which may include cancellation of the licence of the person and the name shall be deleted from the register of qualified water resource professionals.

(3) The person against whom a complaint has been made shall be entitled to appear and be heard at such inquiry, before the case has been determined.

(4) Any person whose licence has been cancelled and whose name has been deleted from the register of qualified water resource professionals under paragraph (1) of this rule may, within thirty days of the date of notification of such cancellation and deletion, appeal to the Water Appeal Board.

139. Requirement of a qualified water resource professional to approve designs and drawings

(1) No certificate, document or plan required by the Act or these Rules to be signed by a qualified water resource professional shall be valid unless it is signed by a person whose name is in the register referred to in these Rules.

(2) For the purposes of this rule, an officer of the Authority, shall if authorised to sign by the Chief Executive Officer, be deemed to be a person whose name is in the said register.

140. Misrepresentation as a qualified water resource professional

Any person who wilfully and falsely takes or uses any name, title or addition implying that the person is a qualified water resource professional licensed under these Rules shall be guilty of an offence and shall be liable to a fine not exceeding three months, or to both.

141. Categories of qualified contractors

The categories of qualified contractors shall be as set out in the Eighth Schedule.

142. Criteria for qualified contractor

(1) The Ministry shall develop detailed criteria for different categories of qualified contractors which shall be provided to any person upon request. The criteria shall be based on the following—

- (a) plant and equipment;

[Subsidiary]

- (b) qualifications and experience of professional staff;
- (c) past experience and performance; and
- (d) any other criteria that the Ministry considers to be relevant.

143. Application to register as a qualified contractor

(1) Any person, entity, non-governmental, charitable organisation, or public body that constructs or is proposing to construct, modify, rehabilitate or service water works shall apply for registration under the appropriate category as a qualified contractor with the Ministry, in the prescribed Form WRC 001 set out in the Twelfth Schedule.

(2) Conditions of registration with the Ministry and information required by the Authority may change from time to time.

144. Issuance of qualified contractor licence

(1) The Ministry shall verify the details of the application by visiting the premises of the applicant and reviewing the state of the equipment and reviewing the experience and qualifications of the applicant and the staff at the premises.

(2) Where the Ministry is satisfied that the applicant is a person qualified to be licensed, it shall issue a licence for such period and on such conditions, as it may deem desirable.

(3) A qualified contractor shall be required to pay the prescribed annual licence fee set out in the First Schedule and payments shall be made to the Ministry no later than the end of the third month in each calendar year.

(4) Failure to renew the licence fee shall be a breach of the conditions of the licence and shall result in the suspension of the licence in which case the person may not practice as a qualified contractor.

(5) A suspended licence may be reinstated after payment of all outstanding fees.

(6) Failure to renew the licence for a consecutive period of three years shall result in the revocation of the licence.

145. Verification of necessary authorisations

(1) The contractor engaged to undertake any works shall verify that all necessary and valid authorisations have been obtained by the client in regard to the proposed works prior to commencement of the works.

(2) The commencement of works by the contractor without having verified the availability of the required authorisation may be used by the Ministry as a basis to take disciplinary action, which may include the deregistration of the contractor.

146. Compliance with Codes of Practice

(1) All qualified contractors shall comply with codes of practice that may be released from time to time by the Ministry.

(2) Such codes of practice shall be developed in consultation with the relevant professional bodies.

147. Complaint made against a qualified contractor

(1) A complaint shall be made to the Ministry against any person licensed as a qualified contractor under these Rules where the contractor has—

- (a) become incapable of carrying out the work of a qualified contractor;
- (b) become unfit, through any reason, to practice as a qualified contractor; or

[Subsidiary]

- (c) has failed to comply with the conditions of his or her licence or any provisions of the Act, or of these Rules.

(2) The Ministry shall hold an inquiry within thirty days of the complaint being lodged and where after such inquiry the Ministry is satisfied that the complaint is justified it shall take disciplinary action which may include cancellation of the licence of the contractor and the name shall then be deleted from the register of qualified contractors.

(3) The contractor against whom a complaint has been made shall be entitled to appear and be heard at such inquiry, before the case has been determined.

(4) Any contractor whose licence has been cancelled and whose name has been deleted from the register of qualified contractors under paragraph (1) of this rule may, within thirty days of the date of notification of such cancellation and deletion, appeal to the Water Appeal Board.

148. Register of qualified contractors

(1) The Ministry shall keep a register in the form set out in the Twelfth Schedule of all qualified contractor licences issued under these Rules.

(2) The Ministry shall, once in every year and not later than the 30th April, publish in the *Gazette* a list containing the names of all licensed qualified contractors.

(3) The Ministry shall also publish in the *Gazette* all names that have been deleted from the register.

(4) Every qualified contractor shall inform the Ministry in writing within twenty-eight days of changes in particulars associated with the licence.

(5) Failure to notify the Ministry of any changes may result in disciplinary action.

149. Misrepresentation as a qualified contractor

Any person, corporate entity, non-governmental or charitable organisation, or public body that wilfully and falsely takes or uses any name, title or addition implying that he, she or it is a qualified contractor licensed under these Rules shall be guilty of an offence and shall be liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding three months, or to both.

150. Recognised water quality laboratories

Any water quality laboratory which is registered by the National Environment Management Authority, accredited, or *gazetted* shall be recognised by the Authority.

151. Measures during emergencies

(1) In the event of unusual climatic, accidental or hydrological events, the Minister may impose by public notification an emergency order as provided by section 108 of the Act in the interests of maintaining the reserve and domestic water supplies.

(2) The Emergency Order shall provide details as listed in the Ninth Schedule.

(3) An Emergency Order shall be lifted or varied by Public Notification.

(4) Any person who fails to comply with an Emergency Order shall be guilty of an offence and shall be liable to a fine not exceeding fifty thousand shillings or imprisonment for a term not exceeding six months, or to both.

[Subsidiary]

152. Terms and conditions of the Authority's CAAC members

Pursuant to paragraph 5 of the First Schedule of the Act, the Governing Board of the Authority will determine and periodically review the terms and conditions of remuneration, travelling and other expenses to which CAAC members are entitled and shall be guided by the terms and conditions for State corporations.

153. Penalties for offences

Any person who is guilty of an offence under these Rules shall, if no other penalty is prescribed in respect of the offence be liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months, or to both.

154. Revocation of Rules under Cap. 372

The following Rules made under the repealed Water Act are revoked—

- (a) the Water (General) Rules (Sub. Leg.);
- (b) the Water (Water Resources Authority) Rules (Sub. Leg.);
- (c) the Water (Water Apportionment Board) Rules (Sub. Leg.);
- (d) the Water (Catchment Board) Rules (Sub. Leg.).

SCHEDULES
FIRST SCHEDULE

[Rules 13, 26, 37, 39, 45, 70, 80, 90, 104, 135, 144.]

FEES AND CHARGES**PART A FEES**

1. Fees for assessment and issuance of water use permits

Relevant Form (if applicable)	Description of Activity	Relevant Rule(s)	Fees K.shs.
WRMA 001	Application for Water Permit	23, 24, 71, 72	See First Schedule, Part A item 2
WRMA 002	Application for Easement	96	2000
WRMA 003	Comments by WRUA on Application for Water Permit	28	Nil
WRMA 004	Authorisation to Construct Works	33	Nil
WRMA 005	Application for Extension of Time for Authorisation	36	2000
WRMA 006	Issuance of Extension of Time Authorisation	36	Nil
WRMA 007	Inspection Report	38	None
WRMA 008	Completion Certificate	38	None
WRMA 009	Borehole Completion Record	76,77	None

Water

[Subsidiary]

FIRST SCHEDULE—*continued*

<i>Relevant Form (if applicable)</i>	<i>Description of Activity</i>	<i>Relevant Rule(s)</i>	<i>Fees K.shs.</i>
WRMA 010	Water Permit	38	See First Schedule, Part A item 2
WRMA 011	Renewal of Permit	44	See First Schedule, Part A item 2
WRMA 012	Variation of Permit	42	2000
WRMA 013	Transfer of Permit	41	2000
WRMA 014	Search of Water Permit	47	1000
WRMA 015	Assessment of Water Use and Charges	106	None
WRMA 016	WRMA Order	8	None
WRMA 017	Authority to Enter Land	11	2000
WRMA 018	WRUA Registration	10	None
WRMA 019	Certificate of Registration of WRUA	10	None
WRMA 020	Supplement to Water Permit/Authorisation	21	3000
WRP 001	Application for Qualified Water Resource Professional	133	3000
WRP 002	Issuance of Licence as Qualified Water Resource Professional	134	3000
WRC 001	Application for Registration as Qualified Contractor	143	5000
WRC 002	Issuance of Licence as Qualified Contractor	144	5000
	Annual Licence Fee for Qualified Water Resource Professional	135	2000
	Annual Licence Fee for Qualified Contractor	145	2000
	For re-issue of, or alteration to Authorisations, Permits, and Licences		2000

2. Fees for assessment and issuance of water use permits

Applications	Assessment of Application (KShs.)	Issue and Renewal of Permit (KShs.) (for 5 years)
Water Use Category A	1,000	Nil
Water Use Category B	5,000	7,500
Water Use Category C	20,000	25,000
Water Use Category D	40,000	50,000

Note—

- (a) For permits issued for less than 5 years, the cost of the permit will be charged on a pro rata basis.

Water

[Subsidiary]

FIRST SCHEDULE—*continued*

3. Fees for data investigations, laboratory analysis and related services

	<i>Type</i>	<i>Unit</i>	<i>Rate (KShs.)</i>
Groundwater Data	Basic data (WSL, WRL, Yield, Depth) up to a maximum of 10 boreholes	Per request	2,000
	Borehole or well completion record (Form 009A or 009B) including test pumping and water quality data	Per borehole	2,000
Hydro-meteorological Data	Rainfall (daily, monthly, or annual)	Per station record	2,000
	Climatic parameter	Per station record	2,000
	Water level and rating equations	Per station record	2,000
	Discharge	Per station record	2,000
	Lake/reservoir level	Per station record	2,000
	Sediment load	Per station record	2,000
Water Apportionment	Copy of authorisation or permit	Per copy	250
Water Quality Data	All parameters (up to a maximum of 20 data sets)	Per request	2,000
Investigations			
Groundwater	Hydrogeological assessment or surveys including borehole siting	Per site	20,000 /-plus staff days based on contracted consultancy day rate and AA rates for mileage exclusive of lab analysis costs
Surface water	Hydrological Assessment or Surveys	Per request	Ditto
WQ & pollution control	Water Quality Assessment or Surveys	Per request	Ditto
Surface water	Flow measurement	Per site	10,000/-plus staff days based on contracted consultancy day rate and AA rates for mileage

Water

[Subsidiary]

FIRST SCHEDULE—continued

	Type	Unit	Rate (KShs.)
Thematic maps & reports	Blue prints	Per copy	1,000
	Coloured prints	Per A1 copy	2,500
		Per A0 copy	5,000
	Coloured prints	Per A4 copy	250
		Per A3 copy	500
	Digital maps	Per Theme	10,000
	Reports	Per page	5
Equipment Hire		Per day	As per prevailing schedule of rates issued by WRMA from time to time
Copy of Register of WRUAs		Per region	500
Copy of Register of Water Bodies		Per region	500
Copy of Register of Authorisations or Permits		Per 100 or part thereof	500
Copy of Register of Qualified Water Resources Professionals or Qualified Contractors		Per copy	500

PART B WATER USE CHARGES

Rates for water use charges for permit Categories B, C and D

Type of Water Use	Criteria	Rate
DOMESTIC, PUBLIC, LIVESTOCK	Domestic, public, and livestock purposes	50 cents/m ³
HYDROPOWER GENERATION	Installed capacity	
	Up to 1 MW	No charge
	Over 1 MW	5 cents per kW/h
IRRIGATION	First 300 m ³ /day	50 cents/m ³
	Over 300 m ³ /day	75 cents/m ³
FISH FARMING	Amount of water supplied	5 cents/m ³
COMMERCIAL INDUSTRIAL	First 300 m ³ /day	50 cents/m ³
	Over 300 m ³ /day	75 cents/m ³
EFFLUENT DISCHARGE		Nil

[Subsidiary]

FIRST SCHEDULE—continued

Note—

- (a) All water use under Category A does not attract any water use charges.
- (b) Water use charges apply to water abstracted, diverted, stored, and or used for hydropower generation.

SECOND SCHEDULE

[Rules 27, 64, 66, 68, 72, 85, 120, 121.]

TECHNICAL REPORTS

The following are guidelines for Technical Reports and compilers are expected to exercise their professional judgement in including other appropriate items in the Technical Report.

Format of Reports

All reports shall be submitted to the Authority in the following format—

- 1. one original paper hardcopy of all documents, duly signed, and adequately bound together;
- 2. two paper copies of all documents;
- 3. a digital Portable Document Format (PDF) format of the document and drawings submitted on a Compact Disk (CD) or any other appropriate electronic medium.

Format of Drawings

All technical drawings submitted to the Authority shall comply with the following format—

- 1. one original paper hardcopy of all drawings duly signed, and adequately bound together;
- 2. two paper copies of all drawings;
- 3. a digital DXF (Digital Exchange Format) DEF format of the technical drawings submitted on a Compact Disk (CD) or other electronic medium as appropriate.

Every plan shall be signed and dated by the person making it, and, if it is made by any person other than the applicant to whom it relates, the applicant or his or her lawfully authorised agent shall also approve, sign and date it.

Every plan prepared by a qualified professional shall have endorsed thereon a certificate in the following form—

CERTIFICATE

I/We of
 hereby certify that this plan was
 made by me/us [or under my]our direction and that it correctly represents the places, lands, areas
 and works shown thereon.

.....
Qualified Professional(s)

All reduced levels or elevations shown on any plan, or set of plans, longitudinal sections, cross sections of any work or works shall be to the same datum, and reference shall be

[Subsidiary]

made on at least one sheet of any set of plans, longitudinal sections or cross sections indicating the datum used, and also the positions of all bench marks, which shall be properly located and described on the general map (and which bench marks one shall be in the immediate vicinity of the point of diversion abstraction or storage), from which the datum may be gained.

The location of the datum shall be described by the Grid Reference in UTM coordinates based on the Arc 1960 datum. The elevation shall be referenced to mean sea level. The nature of datum shall be adequately described.

Format of Maps and Drawings

All technical drawings and maps submitted to the Authority shall comply with the following format—

1. A digital Tagged Image File Format (TIFF) format of the maps submitted on a CD, or other appropriate media.

Site Assessment Report

A site assessment report shall substantially provide the following details—

1. Name and details of Applicant;
2. Description of Proposed Activity;
3. Confirmation of Site details;
4. Relevant hydrological features;
5. Relevant riparian and catchment features;
6. Recommendations.

Technical Report

The following technical reports shall substantially provide the details required.

Hydrological Assessment Report

1. Name and details of Applicant;
2. Location and Description of Proposed Activity;
3. Details of Climate;
4. Details of river or water body (name, nearest regular gauging station, subcatchment);
5. Details of catchment (area, slopes, soils);
6. Details of vegetation and land use;
7. Details of Registered and Non-registered Abstraction on the resource;
8. Details of all other permits related to this application;
9. Hydrological characteristics and analysis (annual, monthly, extreme events, flow duration or probability of events occurring);
10. Hydrochemistry;
11. Analysis of the Reserve;
12. Assessment of availability of flow;
13. Impact of proposed activity on flow regime, water quality, other abstractors;
14. Recommendations on Proposed Activity.

Hydrogeological Assessment Report

1. Name and details of applicant;

[Subsidiary]

2. Location and description of proposed Activity;
3. Details of climate;
4. Details of geology and hydrogeology;
5. Details of neighbouring boreholes, including location, distance from proposed borehole or boreholes, number and construction details, age, current status and use, current abstraction and use;
6. Description and details (including raw and processed data) of prospecting methods adopted, e.g. remote sensing, geophysics, geological and or hydrogeological cross sections, hydro-geological characteristics and analysis, to include but not necessarily be limited to the following—
 - (a) Aquifer transmissivity;
 - (b) Borehole specific capacities;
 - (c) Storage co-efficient and or specific yield;
 - (d) Hydraulic conductivity;
 - (e) Groundwater flux;
 - (f) Estimated mean annual recharge, and sensitivity to external factors;
7. Assessment of water quality and potential infringement of National standards;
8. Assessment of availability of groundwater;
9. Analysis of the reserve;
10. Impact of proposed activity on aquifer, water quality, other abstractors, including likelihood of coalescing cones of depression and implications for other groundwater users in any potentially impacted areas;
11. Recommendations for borehole development, to include but not limited to, the following—
 - (a) Locations of recommended borehole(s) expressed as a co-ordinate(s) and indicated on a sketch map;
 - (b) Recommendations regarding borehole or well density and minimum spacing in the project area;
 - (c) Recommended depth and maximum diameter;
 - (d) Recommended construction characteristics, e.g. wire-wound screen, grouting depth;
 - (e) Anticipated yield;
12. Any other relevant information (e.g. need to monitor neighbouring boreholes during tests).

Effluent Discharge Control Plan

1. Name and details of applicant;
2. Quantity and quality of inflow water;
3. Type and source of effluent;
4. Design of Effluent treatment plant;
5. Location and description (frequency, quantity, quality and nature) of effluent;
6. Description of treatment and operations, if any;
7. Hydrology, hydrogeology and hydrochemistry of receiving water body;
8. Impacts on receiving water body in terms of quantity and quality;
9. Proposed water quality requirements for the permit and the time frame for achieving compliance;

[Subsidiary]

10. Monitoring programme, (measuring device, controlling device, sampling, records, reporting procedures);
11. Emergency plan for accidental discharges and their risks.

Water Quality and Pollution Control Assessment Report

1. Name and details of applicant;
2. Location and description of activity or proposed activity;
3. Details of river or water body (name, nearest regular gauging station, subcatchment);
4. Details of flow regime;
5. Nature and characteristics of effluent;
6. Impact of effluent upon water resource and other water users;
7. Other sources of pollution in the project area;
8. Conclusions and recommendations.

Technical Design Report

1. Name and details of applicant;
2. Description of Proposed Activity;
3. Analysis of Demand;
4. Details of Hydrological Assessment;
5. Details of Structures to be built;
6. Details of Equipment to be installed;
7. Details of Controlling Device;
8. Details of Measuring Device;
9. Details of operating procedures;
10. Details of safety devices.

Dam Design Report (for Class A, B and C Dams)

1. Details of Location;
2. Details of Hydrological Assessment;
3. Details of design flood and return period;
4. Details of Embankment;
5. Details of Reservoir;
6. Details of Draw-off and Compensation Works;
7. Details of Spillway(s);
8. Details of Ancillary Structures;
9. Details of Construction Materials;
10. Details of Construction Schedule;
11. Details of Operational Rules;
12. Procedures to notify and protect downstream inhabitants, infrastructure and environments;
13. Schedule of Inspection and Maintenance;
14. Assessment of Impacts and Risks.

[Subsidiary]*Dam Operation Report*

1. Basic Summary of Technical Details;
2. Details of Management Structure for Dam Operations;
3. Details of Operational and Release Rules;
4. Details of Operation and Maintenance Systems;
5. Procedures to notify and protect downstream inhabitants, infrastructure and environments;
6. Schedule of Inspection and Maintenance.

Dam Completion Report

1. Changes and explanation for differences between as-constructed and design details;
2. As-Constructed Drawings;
3. Summary of as-Constructed Details.

Dam Inspection Report

1. Current condition of dam with respect to approved design and “as-constructed” condition;
2. Any action required to restore the functional and structural integrity of the dam to the required state;
3. Any changes with regard to the risk of or impact in the event of dam failure;
4. Review appropriateness of the action plan in event of dam failure.

Dam Damage or Failure Report

1. Details of location;
2. Date and time of dam failure or damage;
3. Preceding climate;
4. Preceding hydrology;
5. Cause of dam failure or damage;
6. Steps taken to notify downstream inhabitants;
7. Nature and extent of damage caused to the dam or caused by the dam failure.

Progress Report

1. Name and Details of applicant;
2. Description of proposed activity;
3. Details of authorisation including the time frame;
4. Cause of delay;
5. Revised time frame for completion.

Soil and Water Conservation Plan

1. Existing soil and water conservation structures and practises;
2. Potential sources of sediment and other pollutants to the watercourse;
3. Slope of land;
4. Land use;
5. Condition of the riparian land;

[Subsidiary]

6. Proposed Measures and Targets for Improved Soil and Water Conservation;
7. Targets and time frame for adoption and implementation of proposed soil and water conservation structures and practices;
8. Schedule of Inspection of the Soil and Water Conservation Plan;
9. Site sketch showing—
 - (a) Demarcation of boundaries of land covered under the Soil and Water Conservation Plan;
 - (b) Identification of significant features.

Catchment Management Strategy

1. A description of the institutional framework for water resource management detailing institutional roles and responsibilities;
 2. A strategy for the conservation of the catchment and riparian areas;
 3. A water resource development strategy capturing the need for improved water resource reliability and availability to meet current and future demands and to address poverty alleviation targets;
 4. A stakeholder participation strategy that will include mechanisms for encouraging the formation and establishment of Water Resource Users Associations and strengthening them once established;
 5. A communication strategy that will capture the resource monitoring network and flow prediction targets;
 6. A compliance strategy that will detail the time frame, approaches and requirements to bring water users into compliance with water management rules;
 7. A water demand management strategy that will capture approaches and targets for improving water allocation and use efficiencies;
 8. A water allocation plan detailing—
 1. A description of the class of resources and their resource quality objectives;
 2. An analysis of current and future water demands;
 3. Allocation of the resource to the reserve and to different types of uses;
 4. Measures to be taken to ensure that water use approvals remain true to the allocations;
 5. Measures to be taken when resource availability is limited;
 6. A compliance plan;
 7. an enforcement plan;
 8. Mechanisms for reviewing the allocation plan from time to time as the need arises.
-

Water

[Subsidiary]

THIRD SCHEDULE

[Rule 81.]

GUIDELINE STANDARDS FOR EFFLUENT DISCHARGE

1. Guidelines for Effluent Discharge into surface water resources

Parameter	Maximum Allowable (Limits)
Arsenic as As (mg/l)	0.1
Biochemical Oxygen Demand (BOD 5 days at 20°C) (mg/l)	30
Cadmium as Cd (mg/l)	1.0
Chemical Oxygen Demand (COD) (mg/l)	100
Chromium as Cr (mg/l)	Less than 0.01
Lead as Pb (mg/l)	Less than 0.01
Oil and grease	Absent
pH (Hydrogen ion activity)	5.0–9.0
Phenols, total (mg/l)	0.05
Sulphide as S (mg/l)	2.0
Total Suspended Solids (mg/l)	30
Temperature (in degrees Celsius) based on ambient	±5
Cyanides as CN (mg/l)	Less than 0.2
Nickel as Ni (mg/l)	Less than 2.0
Detergents (ABS) (mg/l)	Less than 5.0
Mercury as Hg (mg/l)	Less than 0.01
Total Phosphorus as P (mg/l)	2
Total Nitrogen as N (mg/l)	10
Total pesticide residues	Absent

Remarks

The Authority may issue industry-specific guidelines for effluent discharge based on the water quality objectives, the reserve water quality and dry weather stream flow for individual watercourses or water bodies.

2. Guidelines for Discharge of Effluent onto Land

Parameter	Maximum Permissible
pH	5.5–9.0
Boron (mg/l)	2.0
BOD (mg/l)	500
Chloride (mg/l)	600
Total Dissolved Solids (mg/l)	2100

THIRD SCHEDULE—*continued*

<i>Parameter</i>	<i>Maximum Permissible</i>
Oils and grease (mg/l)	30
Sulphates (mg/l)	1000
Sodium (as percentage of total cation concentration)	60

FOURTH SCHEDULE

[Rules 56, 57, 58, 59, 61.]

DETAILS FOR STORAGE DAMS

Table 1: Classification of Dams

Class of dam	Maximum depth of water at NWL (m)	Impoundment at NWL (m ³)	Catchment area (km ²)
A (low risk)	0–4.99	<100,000	<100
B (medium risk)	5.00–14.99	100,000 to 1,000,000	100 to 1,000
C (high risk)	>15.00	>1,000,000	>1,000

NWL = Normal Water Level

Table 2: Design and Supervision of Dam

Class of dam	Category of qualified water resource professional
A (low risk)	Panel II C, Panel I C1 & Panel I C2
B (medium risk)	Panel I C1 & Panel I C2
C (high risk)	Panel I C2

Table 3: Category of Dam Contractor

Class of dam	Category of dam contractor
A (low risk)	C1, C2
B (medium risk)	C1, C2
C (high risk)	C1

Table 4: Dam Safety Inspection Schedule

Class of dam	Frequency of inspection	Inspection by
A (low risk)	Once in 5 years	Panel I C1, Panel I C2, Panel II C
B (medium risk)	Once in 3 years	Panel I C2, Panel I C1
C (high risk)	Once every 2 years	Panel I C2

Table 5: Minimum Spillway Design Flood for Dams

Class of dam	Minimum return period for design of spillway
A (low risk)	1 in 50 years
B (medium risk)	1 in 100 years
C (high risk)	1 in 500 years

Water

[Subsidiary]

FIFTH SCHEDULE
[Rules 16, 22, 24, 42, 77.]

WATER USE AND PERMIT DETAILS

PART A

Water use activities that require approval by Authority—

- (a) Temporary abstraction for construction;
- (b) Diversion of water from a watercourse;
- (c) Abstraction from surface water;
- (d) Diversion of a watercourse;
- (e) Abstraction from groundwater, either by a borehole or a shallow well;
- (f) Groundwater recharge augmentation;
- (g) Water storage in dams and pans;
- (h) Effluent discharge being the disposal of waste into a water resource;
- (i) Swamp, marsh or wetland drainage;
- (j) Obstruction of water;
- (k) In-stream works;
- (l) Mixing of waters from different water resources;
- (m) Hydropower generation;
- (n) Any other use determined from time to time by the Authority.

PART B

Category of water resource use activities—

<i>Category</i>	<i>Description</i>
A	Water use activity deemed by virtue of its scale to have a low risk of impacting the water resource. Applications in this category will be determined by Regional Offices.
B	Water use activity deemed by virtue of its scale to have the potential to make a significant impact on the water resource. Permit applications in this category will be determined by Regional Offices.
C	Water use activity deemed by virtue of its scale to have a significant impact on the water resource. Permit applications in this category will be determined by Regional Offices in consultation with the Catchment Area Advisory Committees.
D	Water use activity which involves either two different catchment areas, or is of a large scale or complexity and which is deemed by virtue of its scale to have a measurable impact on the water resource. Permit applications in this category will be determined by Regional Offices in consultation with the Catchment Area Advisory Committees and approval by Authority Headquarters.

PART C

Activities for which application for variation of permit shall be made—

- (a) Modifications at the point of diversion or abstraction;
- (b) Varying the water use;
- (c) Changing the point of use;
- (d) Mixing water covered under different permits;

[Subsidiary]

- (e) Replacement, deepening, widening or any other modification to an existing borehole, shallow well or any water works requiring approval by the Authority;
- (f) Abandonment of an existing water works that would normally require approval by the Authority;
- (g) Artificial recharge of groundwater;
- (h) Any other type of water development that may, from time to time, be determined by the Authority.

SIXTH SCHEDULE

[Rules 118, 120, 123.]

PROTECTION AND CONSERVATION OF RIPARIAN AND CATCHMENT AREAS

PART A

Activities proscribed on riparian land are—

- (a) Tillage or cultivation;
- (b) Clearing of indigenous trees or vegetation;
- (c) Building of permanent structures;
- (d) Disposal of any form of waste within the riparian land;
- (e) Excavation of soil or development of quarries;
- (f) Planting of exotic species that may have adverse effect to the water resource;
- (g) Or any other activity that in the opinion of the Authority and other relevant stakeholders may degrade the water resource.

PART B

The criteria for requiring a soil and water conservation plan are—

- (a) Existing condition of the riparian area and the risk of river bank erosion, sources of direct run-off into the watercourse and sediment sources within the riparian and catchment areas;
- (b) Slope of the land;
- (c) Land use and land management practices and the risk of soil erosion and destruction from excessive direct run-off;
- (d) Presence or otherwise of soil and water conservation structures;
- (e) Potential water resource pollution arising from the land use;
- (f) Any other criteria that the Authority considers to be significant.

PART C

The criteria for identifying a protected area or groundwater conservation area are—

- (a) Catchment characteristics;
- (b) The vulnerability of the water resource quality objectives and the current status of the water resource;
- (c) The water resource quality objectives and the current status of the water resource;
- (d) The class of the water resource;

[Subsidiary]

- (e) Water demands, present and projected, on the water resources;
- (f) Land uses and their potential impact on the water resources;
- (g) Any other criterion that the Authority considers relevant.

PART D

Contents of management rules or plans related to a protected area or groundwater conservation area may include—

- (a) Procedures to be applied for the management of the protected area or groundwater conservation area;
- (b) Prohibited activities;
- (c) Any measures required to be undertaken for water resource conservation and protection;
- (d) The time frame for implementation of required measures;
- (e) Any other conditions that the Authority may consider relevant.

SEVENTH SCHEDULE

[Rule 129.]

RESPONSE TO VIOLATION OF THE RESERVE

Measures that the Authority may take in relation to a report on violation of the reserve include—

- (a) Investigating the cause of the reserve violation;
- (b) Advise the Minister that an emergency situation exists and the reserve is being violated by virtue of natural and or anthropogenic events;
- (c) Enforcing any conditions on any approvals, authorisations or permits that may rectify the situation;
- (d) Temporarily suspending or varying permits;
- (e) Hydrographic and abstraction surveys;
- (f) Establishing or revising a water allocation plan or an effluent discharge control plan;
- (g) Informing the public on the condition of the reserve and any actions that are needed to the reserve;
- (h) Any other measures considered appropriate by the Authority.

EIGHTH SCHEDULE

[Rules 130, 141.]

QUALIFIED WATER RESOURCES PROFESSIONALS AND QUALIFIED CONTRACTORS**PART A***Categories of qualified water resources professionals*

Panel I – Water Engineer

- (A) Water supply works (exceeding 1,000 m³/day)

- (B) Effluent treatment works (exceeding 1,000 m³/day)
- (C) Dams—
 - (1) Class A and B Dams
 - (2) Class A, B and C Dams
- (D) Irrigation works (exceeding 7,500 m³/day)

Panel II – Water Engineer

- (A) Water supply works (less than 1,000 m³/day)
- (B) Effluent treatment works (less than 1,000 m³/day)
- (C) Class A Dams
- (D) Irrigation works (less than 7,500 m³/day)

Panel III

- (A) Hydrologists
- (B) Hydrogeologists
- (C) Hydrometeorologists
- (D) Chemists
- (E) Biologists
- (F) Ecologists

PART B

Categories of qualified contractors

Category 1

- A Water supply works (exceeding 1,000 m³/day)
- B Effluent Treatment Works (exceeding 1,000 m³/day)
- C Dams for Class C Dams
- D Irrigation works (exceeding 7,500 m³/day)
- E Borehole drilling (eligible to drill boreholes)
 - Class 1: Able to drill less than a depth of 150 metres
 - Class 2: Able to drill in excess of 150 metres

Category 2

- A Water supply works (less than 1,000 m³/day)
- B Effluent treatment works (less than 1,000 m³/day)
- C Dams for Class A and B Dams
- D Irrigation works (less than 7,500 m³/day)
- E Borehole servicing (eligible to service or rehabilitate boreholes).

NINTH SCHEDULE

[Rule 151.]

EMERGENCY ORDERS

Contents of an emergency order shall include—

- (a) that an emergency exists;

[Subsidiary]

- (b) start date of the Emergency Order;
- (c) the factors that have caused the emergency;
- (d) what area or water resource(s) are affected;
- (e) what action or activities are restricted or prohibited;
- (f) what action or activities will be undertaken;
- (g) conditions that need to be fulfilled for the emergency order to be lifted.

TENTH SCHEDULE

[Rule 5.]

FORMAT FOR REPORT ON COMPLAINTS

Information to be given by a complainant under these Rules shall include—

- (a) Name of complainant;
- (b) Contact address, telephone number, e-mail address (if any);
- (c) Nature and location of the problem;
- (d) Date that problem occurred;
- (e) Name and if available the contact details of all parties to the dispute or complaint;
- (f) Any other relevant details;
- (g) Signature of the complainant.

ELEVENTH SCHEDULE

[Rule 91.]

WATER QUALITY SAMPLING PROCEDURES

The procedures to be followed where water quality sample is taken for prosecution purposes shall include—

- (a) The presence of the alleged polluter at the place and time of sampling;
- (b) Where the intended analysis is to determine compliance with physical and chemical parameters, then a sample shall be taken and divided into three portions, each contained in an appropriate capacity container and preserved according to standard practice;
- (c) Where the intended analysis is to determine compliance with microbiological parameters, then a sample shall be taken and divided into three portions, each contaminated in a sterile glass bottle;
- (d) All three portions will be sealed in the presence of the alleged polluter who is required to sign an acknowledgement that he has witnessed the sampling;
- (e) One portion will be provided to the alleged polluter who may obtain his or her own independent analysis from a *gazetted* laboratory of his or her choice;
- (f) One portion shall be sent by the Authority to a *gazetted* laboratory for analysis;

Water

[Subsidiary]

- (g) One portion shall be retained by the Authority for future reference provided that the storage of the sample is safe enough and the period of storage does not result in the deterioration of the sample.

TWELFTH SCHEDULE
[LN 93/2011, L.N. 171/2007.]

LIST OF FORMS AND REGISTERS

<i>Form Number</i>	<i>Description</i>	<i>Relevant Rule(s)</i>
WRMA 001	Application for Water Permit	23, 24, 71, 72
WRMA 002	Application for Easement	96
WRMA 003	Comments by WRUA on Application for Water Permit	28
WRMA 004	Authorisation to Construct Works	33
WRMA 005	Application for Extension of Time for Authorisation	36
WRMA 006	Issuance of Extension of Time of Authorisation	36
WRMA 007	Inspection Report	38
WRMA 008	Completion Certificate	38
WRMA 009	Borehole Completion Record	76,77
WRMA 010	Water Permit	38
WRMA 011	Renewal of Permit	44
WRMA 012	Variation of Permit	42
WRMA 013	Transfer of Permit	41
WRMA 014	Search of Water Permit	47
WRMA 015	Assessment of Water Use and Charges	106
WRMA 016	WRMA Order	8
WRMA 017	Authority to Enter Land	11
WRMA 018	WRUA Registration	10
WRMA 019	Certificate of Registration of WRUA	10
WRMA 020	Supplement to Authorisation/Permit	21
WRMA 021	WRMA Field Note Book	12
WRMA 022	WRMA Regional Incidence Occurrence Register	13
WRP 001	Application for Registration as a Qualified Water Resource Professional	133
WRP 002	License as a Qualified Water Resource Professional	135
WRC 001	Application for Registration as a Qualified Contractor	143
WRC 002	License as a Qualified Contractor	144

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

Official Registers

Register Number	Official Registers	Relevant Rule(s)
R 001	Register of WRUAs	10
R 002	Register of Water Bodies	14
R 003	Register of Authorisations	37
R 004	Register of Approved Water Users, Uses and Permits	37
R 005	Register of Qualified Water Resource Professionals	137
R 006	Register of Qualified Contractors	148

Form: WRMA 001A

The Chief Executive Officer,
Water Resources Management
Authority,
P.O. Box 45250 – 00100
NAIROBI



Catchment:
WRMA I.D.:
File:

Water Resources Management Authority

APPLICATION FOR WATER PERMIT

(To be submitted in triplicate)

(Rules 23, 24, 71, 72)

Type of water use	Surface Water				Ground water		Effluent discharge	Swamp drainage
	Diversion	Abstraction	In stream works	Storage	Shallow well	Borehole		
Tick box								
Attach form	1B	1B	1B	1C	1D	1D	1E	1E

PARTICULARS OF APPLICANT	DETAILS
1. Full name of applicant(s) (in block letters)	
2. Category of applicant—Individual, group (association, society), company, institution	
3. I.D. number of applicant (individual) or Certificate of Incorporation or registration for groups or companies	
4. PIN number (where available)	
(i) Physical address where water is to be used	(ii) Contact address of applicant

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

5. L/R number(s)		11. Box number	
6. Village(s)/ward(s)		12. Town	
7. Sub-location(s)		13. Post code	
8. Location(s)		14. Telephone contact (Landline)	
9. Division(s)		15. Telephone contact (Mobile)	
10. District(s)		16. E-mail contact	

(i) WATER RESOURCE DETAILS

17. Name of body of water or aquifer where water is to be diverted abstracted or stored	
18. Is the point of abstraction or storage in a protected area or a groundwater conservation area? (Yes/No)	
19. Sub-catchment number	
20. Class of water resource	
21. Name of body of water or aquifer where effluent is to be discharged	
22. Sub-catchment number (Effluent)	
23. Class of water resource (Effluent)	
24. Category of application (class of permit)	

(ii) MIXING WATERS

25. State the authorisation(s) and permits already issued in respect of the water use on the land described in No. 4 (If Nil state "Nil", if Yes, list authorisation or permit numbers).	
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Note— Shaded Areas to be filled in by WRMA Officials

(iii) LAND

26. Does applicant own all the land related to the permit application? Yes/No	
27. If No, have easement(s) been attached? (Yes = 1, No = 0)	
28. Does application involve land located within or adjacent to a riparian, protected or groundwater conservation area? (Yes/No)	
29. Is proposed activity permitted within the riparian area, protected or groundwater conservation area? (Yes/No)	

(iv) OWNERSHIP OF WORKS

30. Will the applicant own all the works related to the permit application?	
31. If No, have agreement(s) been obtained from owner(s) of all works and are these agreements adequate and attached? (Yes/No)	

(v) SUPPLEMENT TO PERMIT/AUTHORISATION

32. Is application made under section 21 of WRMA Rules? Yes/No	
33. Provide permit number for main permit	

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

QUANTITY OF WATER REQUIRED

34. Brief description of project and intended use for water				
Type of Water Use	Groundwater (m ³ /day)	Surface Water (m ³ /day)		
		River – Normal Condition	River – Flood Condition	Lake
35. Public				
36. Domestic				
37. Livestock				
38. Subsistence Irrigation				
39. Commercial Irrigation				
40. Industry/Commercial				
41. Hydropower				
42. Others				
43. Sub-total				
44. Quantity returned				
45. Water used (row 41; row 42)				
46. Effluent Discharge				

PERIOD OF CONSTRUCTION

47. State the estimated period of construction of the works (months)	
48. State the period for which the permit is required (year-maximum 5 years)	

DESCRIPTION OF WATER USE

DOMESTIC

Population to be served (number of people)	
Basic human needs (m ³ /day)	
Domestic water demand (m ³ /day)	

LIVESTOCK

Type of Livestock	Number of Animals
Grade cattle	
Local cattle or donkeys	
Goats and sheep	
Camels	
Other	

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

PUBLIC PURPOSE

Supply area (km ²)	
Population to be served	

SUBSISTENCE IRRIGATION – Water for Household Food Security

Number of connections	
Area per connection (ha.)	
Total Irrigated Area (ha.)	
Expected rate of water use m ³ /ha/day	
Total expected water requirements (m ³ /day)	

COMMERCIAL IRRIGATION

Type of crop (hectares)	Type of production system (outdoor GH. hydroponics)	Type of irrigation technology (overhead, micro-sprinkler, drip)	Expected rate of water use m ³ /ha/day	Total expected water requirements (m ³ /day)
TOTAL				

INDUSTRIAL

Number of persons employed	
Type of industry (tick whichever is appropriate)	
Food processing	Pulping (coffee, sisal, sugar)
Horticultural packaging	Tea
Chemical manufacturing	Bottling
Tanning	Others (state type)
Water requirements	
Water required for plant/processing (m ³ /day)	
Water required for sanitation facilities (m ³ /day)	
Water required for other purposes (m ³ /day)	
Total water requirements (m ³ /day)	

POWER

Maximum static head (m)	
Expected power generated (KV _a -hr) at maximum static head	

OTHER USES

Fishponds (volume-m ³)	
------------------------------------	--

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

FEEES SUBMITTED

Category A, B, C or D application	Fees for examination of application
-----------------------------------	-------------------------------------

AMOUNT PAID

Receipt Number		
ATTACHEMENTS	Attached (Yes/No)	Comments/Remarks
Form 1B		
Form 1C		
Form 1D		
Form 1E		
Form 1F		
Copy of identification documents		
Copy of land documents		
Copy of agreements on land use		
Copy of agreements on use of water works		
Relevant maps		
Copy of EIA license		
Site assessment report		
Technical reports—		
hydrological assessment report		
hydrogeological survey report		
technical design report		
dam design report		
effluent discharge control plan		
Soil and water conservation plan		
Copy of receipt for payment		
WRUA comment form		

I agree to supply any further information which may be required by the Water Resources Management Authority

SIGNATURE

Signature of applicant or duly authorised agent	
Name	
Date of application	

TWELFTH SCHEDULE—continued

SIGNATURE OF WRMA OFFICIAL RECEIVING APPLICATION

Signature of WRMA Official	
Name	
Position	
Date application received	

OFFICIAL SECTION

(To be filled in by WRMA officials)

	Tick	Date	Officer
Submission			
WRUA advice received—			
recommended			
rejected			
conditional recommendation			
CAAC advice received—			
recommended			
rejected			
conditional recommendation			
WRMA National Office (Category D)—			
recommended			
rejected			
conditional recommendation			
WRMA Regional Office—			
recommended			
rejected			
Authorisation—			
issue of authorisation			
validity period (months)			
expiry			
extension of validity period (months)			
revised expiry date			
inspection of final completion			
Date of issue of permit			
Date of expiry of permit			

[Subsidiary]

TWELFTH SCHEDULE—continued

Form: WRMA 001B

The Chief Executive Officer,
Water Resources Management
Authority,
P.O. Box 45250 – 00100
NAIROBI



Catchment:
WRMA I.D.:
File:

SURFACE WATER – ABSTRACTION, DIVERSION, IN-STREAM AND CONVEYANCE WORKS

Grid reference for works (UTM, based on ARC 1960 Datum, Zone 36/37)—	
Easting	
Northing	
altitude (m above sea level)	
map sheet	
Details of site datum	
Grid reference for datum (UTM, based on ARC 1960 Datum, Zone 36/37)—	
Easting	
Northing	
altitude (m above sea level)	
map sheet	
Description of datum	
Weir (1) or Collection Chamber (2)	
Dimensions—	
width/diameter (m)	
length (m)	
height (m)	
Materials	
Compensation flow capacity (m ³ /day)	
Pump	
Type of pump	
Type of driving machine	
Power source of driving machine (diesel, electric, wind, water)	
Maximum power rating (KV _a)	
Expected operating head (m)	
Delivery rate at expected operating head (m ³ /hr)	
Expected operating hours (hrs)	
Canal	

TWELFTH SCHEDULE—continued

Length (m)	
Top width (m)	
Bottom width	
Lined or unlined	
Lining material	
Gradient (m/100m or %)	
Maximum velocity (m/s)	
Maximum capacity (m ³ /day)	
pipeline	
Internal diameter of delivery pipe	
Material	
Length (m)	
Maximum capacity (m ³ /day)	
Any other relevant details	

Form: WRMA 001C

The Chief Executive Officer,
Water Resources Management
Authority,
P.O. Box 45250 – 00100
NAIROBI



Catchment:
WRMA I.D.:
File:

STORAGE DAMS

Name of dam	
Class of dam (A, B or C)	
Grid reference for dam (UTM, based on ARC 1960 Datum, Zone 36/37)	
Easting	
Northing	
altitude (m. above sea level)	
map sheet	
Details of site datum	
Grid reference for datum (UTM, based on ARC 1960 Datum, Zone 36/37)	
Easting	
Northing	
altitude (m. above sea level)	
map sheet	
Description of datum	

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

Spillway	
Catchment area (km ²)	
Design flood (m ³ /s)	
Return period for spillway design (1 in years)	
Material of outflow channel	
Dimensions at control—	
width (m)	
length (m)	
height (m)	
Embankment	
Material (earth, concrete, masonry, others)	
Dimensions—	
width at crest (m)	
length at crest (m)	
upstream slope (1 to)	
downstream slope (1 to)	
maximum depth of water (measured from bed to normal water level) (m)	
maximum height of embankment (m)	
Gross freeboard (m)	
Net freeboard (m)	
Impoundment	
Estimated area at normal water level (m ²)	
Estimated impounded volume (m ³)	
Other details	
Maximum draw-off capacity (m ³ /day)	
Maximum compensation flow capacity (m ³ /day)	

Form: WRMA 001D

The Chief Executive Officer,
Water Resources Management
Authority,
P.O. Box 45250 – 00100
NAIROBI



Catchment:
WRMA I.D.:
File:

GROUND WATER-WELLS/BOREHOLES

Grid reference for abstraction point (UTM based on ARC 1960 Datum. Zone 36/37)	
Easting	
Northing	

TWELFTH SCHEDULE—continued

altitude (m above sea level)		
map sheet		
Is the well or borehole within a distance of 100 m of a body of surface water?		
List all wells/boreholes within 1000 m of proposed site	L.R. Number	Distance (m)
Expected yield (m ³ /hr)		
Intended depth of excavation or drilling (m)		
Intended diameter of excavation or drilling (mm)		
Expected type of draw-off works (tick as appropriate)—		
handpump-type		
windpump-type		
electric pump		
direct drive		
windlass		

Form: WRMA 001F

The Chief Executive Officer,
Water Resources Management
Authority,
P.O. Box 45250 – 00100
NAIROBI



Catchment:
WRMA I.D.:
File:

EFFLUENT DISCHARGE

Grid reference for Abstraction point (UTM based on ARC 1960 Datum, Zone— 36/37)—	
Easting	
Northing	
altitude (m above sea level)	
map sheet	

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

Source of water supply	
Source of effluent (domestic, institutions, industrial, agricultural, urban)	
Mode of discharge (pipe, canal ...)	
Maximum daily effluent discharge (m ³ /day)	
Details of treatment system—	
Chemical	
Settling	
anaerobic digesters	
oxidation or aerated ponds	
natural or constructed wetland	
other (specify)	
retention time (days)	
Nature of pollutants (chemical, biological, physical)	

EFFLUENT QUALITY

<i>Parameter</i>	<i>Units</i>	<i>Value</i>
BOD (5 days at 20°C)	mg/l	
COD	mg/l	
Total dissolved solids	mg/l	
pH	pH scale	
Temperature	°C	
Total coliforms	Counts/100 ml	
Turbidity or colour	NTU/Hazen	
Ammonia-NH ₃	mg/l	
Ammonium-NH ₄	mg/l	
Nitrite-NO ₂	mg/l	
Nitrate-NO ₃	mg/l	
Total phosphorous	mg/l	
Total nitrogen	mg/l	
Total suspended solids	mg/l	
Metals	mg/l	
Non-metal toxics (sulphides, cyanides, fluorides)	mg/l	

TWELFTH SCHEDULE—continued

Parameter	Units	Value
Pesticide residues	µg/l	
Phenols	mg/l	
Oils and grease	mg/l	
Others		

SWAMP DRAINAGE

Name of swamp	
Size of swamp to be drained (ha)	
Purpose of swamp drainage (agricultural, residential, recreational, public health, industrial, abstraction)	
Means of swamp drainage (tick as appropriate)—	
channelling or canalisation of flows	
diversion of inflow	
expected % of inflow waters to be diverted	
construction of drainage canals or drainage pipes	
Expected reduction in water level in swamp (m)	

Note— Form WRMA 001B is required to be filled if swamp drainage is planned in conjunction with water abstraction or diversion

Form: WRMA 002

The Chief Executive Officer,
Water Resources Management
Authority,
P.O. Box 45250 – 00100
NAIROBI



Catchment:
WRMA I.D.:
File:

APPLICATION FOR EASEMENT

(To be submitted in triplicate)

(Rule 96)

PARTICULARS OF APPLICANT	DETAILS
1. Full name of applicant(s) (in block letters)	
2. Category of applicant—individual, group (association, society), company, institution	

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

3. I.D. Number of Applicant (Individual) or Certificate of Incorporation or Registration for Groups or Companies			
4. PIN number (where available)			
(i) Physical address where water is to be used		(ii) Contact address of applicant	
5. L.R. number(s)		11. Box number	
6. Village(s)/Ward(s)		12. Town	
7. Sub-location(s)		13. Post code	
8. Location(s)		14. Telephone contact (landline)	
9. Division(s)		15. Telephone contact (mobile)	
10. District(s)		16. E-mail contact	

In respect of an easement of aqueduct in connection with the passage of water from the

 (description and name of body of water) across the property
 (description of property) and in respect of an easement of work in connection with the water from the (body of water) at the point shown on the plan attached hereto and in respect of an easement of storage in connection with water from the (body of water).

1. The Applicant named above is the landholder (or agent lawfully authorised by the landholder) of the property (description of property and L.R. Nos. of farms (if any) and or mining locations or leases).
2. The Applicant bases his claim for the easement on the following grounds ¹

3. The accompanying plan(s) marked
 Show the general arrangement the nature and locality of the proposed works and the land or lands on which (an) easement(s) is (are) now required and the area(s) within the lines shown in red on the said plan is (are) the maximum area(s) over which the easement(s) now applied for is (are) required.
4. (a) The following ₂ is a description of the work(s) in respect of which (an) easement(s) is (are) Now required ²

1. Here give brief description, with dimensions, of the proposed aqueduct and state the area of the land over which the easement is claimed.
 2. Here give brief description, with dimensions, of the proposed aqueduct and state the area of the land over which the easement is claimed.

TWELFTH SCHEDULE—continued

- (b) The maximum quantity of water to be conveyed or dealt with by the aqueduct is
..... cubic meters per day.
- (c) The position of the dam and the storage reservoir are shown on the plan marked
..... and the blue line thereon shows the approximate area which will be submerged at high flood level of the reservoir, and the red line shown on the said plan shows the limit of area over which easement is claimed.
- (d) The easement of aqueduct is required for a period of.....
- 5. (a) The following is a description of the work(s) in respect of which (an) easement(s) of work is (area) required
.....
.....
.....
.....
.....
.....
.....
.....
- (b) The quantity and nature of materials required from the land referred to in paragraph (a) above for the purpose of constructing the proposed works are as follows:—
.....
The easement of work is required for a period of
- 6. (a) The following is a description of the work(s) in respect of which (an) easement (s) of storageis (are) required
.....
.....
.....
.....
.....
.....
.....
- (b) The positions of the dam and the storage reservoir are shown on the plan marked
.....
and the blue line thereon shows the approximate area that will be submerged at high flood level of the reservoir, and the red line shown on the said plan shows the limit of area over which easement is claimed.
The quantity and nature of materials required from the land for the purpose of constructing the proposed works referred to in paragraph (a) above are as follows—
.....
- (d) The easement of storage is required for a period of
- 7. On the Schedule attached to this Form is set forth the names of the landholders, mortgages and lessees of the property over which the easement is claimed.
- 8. In accordance with section 28 of the Act, notice with full particulars of the proposed works was given not less than two months before the date of this application given to all the landholders, mortgages and lessees named in the said Schedule with the result shown in the attached Schedule.
- 9. I have served a copy of this claim on all the landholders, mortgages and lessees mentioned in the attached Schedule.
I enclose herewith Bankers Cheque No of K.sh. cents for an

3. Here give brief description, with dimensions, of the proposed weir or other work and state the area of land over which the easement is claimed.

4. Here give brief description, with dimensions, of proposed storage works and state the area of land over which the easement is claimed.

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

examination of this application. I understand that the fee does not cover the preparation of the necessary deed in the event of my application being successful

Signature

AFFIDAVIT

I of do solemnly and sincerely declare as follows—

I have read the foregoing and the particulars and things set out therein are true and accurate.

I make this declaration conscientiously believing the same to be true and according to the Oaths and Statutory Declarations Act.

Sworn at

This day of, 20

Before me,

..... (Magistrate or Commissioner for Oaths)

NOTES

- 1. The Applicant shall fill in the blank spaces in this form with the required information, and where alternative expressions are given, he shall strike out those, which do not apply.
2. The area of land over which the easement is claimed must include the area of land, if any, occupied by the works, flooded as a result of the works, required for purposes of inspection and maintenance of the works, required for the excavation or collection of material for the works, required for the deposit of spoil or material derived from the works or required for a road or roads to obtain access to the works.
3. The plans submitted must show clearly any works, irrigated and/or cultivated areas, roads, buildings and/or any other features which will be affected if the easement applied for is granted, and the area of swamp or land to be reclaimed.

continued on next page 185

SCHEDULE OF LANDHOLDERS, MORTGAGEES AND LESSEES

Attached to the application of dated
 For easement of dated 20.....
 (Use additional sheets if required)

Reference No. of property (consecutively on plan)	L.R. No. of property or No. of mining location or property	Name of person on whom notice has been served	State whether landholder, mortgagee or sub-lessee	Postal address of landholder, mortgagee or sub-lessee	Area of easement required (area in acres)	Amount of compensation tendered to landholder, mortgagee or sub-lessee	Purpose for which easement is required	Does the person agree to the claim for easement (Yes/No)	Signature of landholder, mortgagee or sub-lessee	Date of signature

Water

[Subsidiary]

Form: WRMA 003

The Chief Executive Officer,
Water Resources Management
Authority,
P.O. Box 45250 – 00100
NAIROBI



Catchment:
WRMA I.D.:
File:

Water Resources Management Authority
COMMENTS BY WRUA ON
APPLICATION FOR WATER PERMIT

(To be submitted in triplicate)

(Rule 28)

NAME OF WRUA			
PARTICULARS OF PERMIT APPLICANT			
1. Full name of applicant(s) (in block letters)		2. WRMA I.D. number of applicant	
3. Box number		4. Town	
5. Telephone contact (landline)		6. Telephone contact (mobile)	
7. E-mail contact			

WATER RESOURCE DETAILS

Name of body of water or aquifer where water is to be diverted, abstracted or stored	
--	--

Type of water use	Surface water				Groundwater		Effluent discharge	Swamp drainage
	Diversion	Abstraction	In-stream works	Storage	Shallow well	Borehole		
Tick box								

WRUA COMMENTS	ANSWER/COMMENTS
1. Application was discussed by WRUA on (date)	
2. Is proposed application for water use likely to severely impact dry season flows?	
3. Is proposed application for water use likely to severely impact water quality?	
4. Is proposed application for water use likely to put public at risk?	
5. Is proposed application likely to increase the risk of water use conflicts?	
6. Is proposed application for water use considered beneficial to the public?	
7. Is there an alternative water source for the applicant that should be considered? (provide details)	

TWELFTH SCHEDULE—continued

8. WRUA conclusion (<i>objection, no objection, or conditional no-objection, or unable to make a conclusion due to lack of information</i>)	
9. Reasons for objection or conditions for no-objection	

SIGNATURE BY TWO WRUA OFFICIALS

Name of WRUA Official		
Position		
Signature of WRUA Official		
Date of signature		

Form: WRMA 004

The Chief Executive Officer,
Water Resources Management
Authority,
P.O. Box 45250 – 00100
NAIROBI



Catchment:
WRMA I.D.:
File:

Water Resources Management Authority
**AUTHORISATION TO CONSTRUCT WORKS
FOR THE USE OF WATER**

(Rule 33)

Dear Sir/Madam

I have the honour to inform you that the Water Resources Management Authority has given you approval to construct the proposed works based on your application date for a water permit.

Authorisation No. WRMA		Dated	
------------------------	--	-------	--

Type of water use	Surface water				Groundwater		Effluent discharge	Swamp drainage
	Diversion	Abstraction	In-stream works	Storage	Shallow well	Borehole		
Tick box								

PARTICULARS OF APPLICANT	DETAILS
1. Full name of applicant(s) (in block letters)	2.
3. Category of applicant—individual, group (association society), company, institution	

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

4. I.D. Number of Applicant (Individual) or Certificate of Incorporation or Registration for Groups or Companies			
5. PIN number (where available)			
(i) Physical address where water is to be used		(ii) Contact address of applicant	
6. L/R Number(s)		7. Box number	
8. Village(s)/Ward(s)		9. Town	
10. Sub-location(s)		11. Post code	
12. Location(s)		13. Telephone contact (landline)	
14. Division(s)		15. Telephone contact (mobile)	
16. District(s)		17. E-mail contact	

WATER RESOURCE DETAILS

18. Name of body of water or aquifer where water is to be diverted, abstracted or stored	
19. Is the point of abstraction or storage in a protected area or a groundwater conservation area? (Yes/No)	
20. Sub-catchment number	
21. Class of water resource	
22. Name of body of water or aquifer where effluent is to be discharged	
23. Sub-catchment number (effluent)	
24. Class of water resource (effluent)	
25. Category of application (class of permit)	

SUPPLEMENT TO PERMIT/AUTHORISATION

26. Are there any supplements approved under section 21 of WRMA Rules (Yes/No)				
27. Supplement No.				
28. Brief description of project and intended use for water				
Type of water use	Groundwater (m ³ /day)	Surface water (m ³ /day)		
		River-Normal condition	River-Flood condition	Lake
29. Public				
30. Domestic				
31. Livestock				
32. Subsistence irrigation				

TWELFTH SCHEDULE—continued

33. Commercial irrigation				
34. Industry/commercial				
35. Hydropower				
36. Others				
37. Sub-total				
38. Quantity returned				
39. Water abstracted (row 34-row 35)				
40. Effluent discharge				

Having filed the necessary application, maps and plans, and having complied with the provisions of the Water Act 2002, and the Rules there under relating to the applications for water permits *is/are hereby authorised to construct subject to the acquisition of the necessary rights of way or easements therefore, if any, the works shown by the said applications, maps and plans in accordance with provisions of the Water Act 2002, the Rules thereunder, and the following conditions—

1. *The construction of the works hereby authorised shall commence within a period of days/months/years and shall be completed within a period of months/years from the date of this authorisation.*
2. (a) *Any person who erects or constructs temporary works shall be entitled to divert, abstract, impound, obstruct, store or use water to such extent only as may be necessary for the construction or erection of the works, and whenever it shall be necessary to divert, abstract or impound water during the erection or construction of the works authorised, such diversion, abstraction, obstruction, impounding, or use of water shall be made at such time and in such manner that the works of other operators are interfered with as little as possible and that no damage will be caused to property of another landholder. Provided that if any damage is caused it shall, failing agreement between the parties concerned, be settled by arbitration under the Arbitration Act.*
 (b) *Unless empowered thereto by the Water Resources Management Authority in writing, all temporary works shall be removed within a period of three months from the date of completion of the works authorised or from the date of determination of the authorisation (whichever be the earlier) and where any temporary works exist, such as quarries, burrow-pits, excavations, cuttings, tunnels or things of a like nature which cannot be economically removed, efficient precautions to the satisfaction of the Water Resources Management Authority shall be taken, by the person named in the authorisation, to ren.*
The Water Resources Management Authority reserves the right to inspect the works authorised by this authorisation, and attention is drawn to section 90 of the Act.
3. *Any changes between the original proposed design and final as-constructed arrangement has been documented and such documentation submitted to the Authority.*

*Delete words not required

CONDITIONS OF AUTHORISATION	DETAILS
Measuring device	
Controlling device	
Water Quality Report	
Evidence of EMCA compliance	

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

Soil and water conservation plan	
Compensation flow (m ³ /day)	
Inspection milestones	
1	
2	
3	
4	
Notification requirements	
1	
2	
3	
4	
Storage	
Airline	
Test pumping	
Other technical details	
Effluent discharge requirements	

4. This authorisation will be automatically cancelled, when the authorised period expires, without any further reference to you unless extension of time limit is applied for prior to date of expiry.
5. The following details/documents/fees are required to complete your application before a permit may be issued:
 - (a) Form WRMA 008 must be returned duly signed when works have been installed.
 - (b)
 - (c)
 - (d)

..... <i>Signature</i> Yours faithfully,	
Signature of WRMA Officer	
Name of Officer	

TWELFTH SCHEDULE—continued

Position	
Date of signature	

Form: WRMA 005

The Chief Executive Officer,
Water Resources Management
Authority,
P.O. Box 45250 – 00100
NAIROBI



Catchment:
WRMA I.D.:
File:

Water Resources Management Authority
APPLICATION FOR EXTENSION OF TIME FOR
AUTHORISATION TO CONSTRUCT WORKS

(To be submitted in triplicate)

(Rule 36)

I, (name) being the holder of authorisation

No. do hereby apply for an extension of time in order to complete the proposed works.

I confirm that all other particulars of the authorisation remain the same.

The need to extend the period of time has been caused by (state cause)

.....
.....
.....

Type of water use	Surface water				Groundwater		Effluent discharge	Swamp drainage
	Diversion	Abstraction	In-stream works	Storage	Shallow well	Borehole		
Tick box								

PARTICULARS OF PERMIT APPLICANT	DETAILS
1. Full name of applicant(s) (in block letters)	2.
3. Category of applicant—individual, group (association, society), company institution	
4. I.D. Number of applicant (individual) or certificate of Incorporation or registration for groups or companies	
5. PIN number (where available)	
(i) Physical address where water is to be used	(ii) Contact address of applicant

Water

[Subsidiary]

TWELFTH SCHEDULE—*continued*

6. L/R number(s)		7. Box number	
8. Village(s)/ward(s)		9. Town	
10. Sub-location(s)		11. Post code	
12. Location(s)		13. Telephone contact (Landline)	
14. Division(s)		15. Telephone contact (Mobile)	
16. District(s)		17. E-mail contact	

WATER RESOURCE DETAILS

18. Name of body of water or aquifer where water is to be diverted, abstracted or stored	
19. Is the point of abstraction or storage in a protected area or a groundwater conservation area? (Yes/No)	
20. Sub-catchment number	
21. Class of water resource	
22. Name of body of water or aquifer where effluent is to be discharged	
23. Sub-catchment number (effluent)	
24. Class of water resource (effluent)	
25. Status of water resource (effluent)	
26. Category of application (class of permit)	

FEES SUBMITTED

Category A, B, C or D class application	Amount (KES)
Application fees for extension of time of authorisation	
Receipt number	
Time period for construction	
Initial authorisation issued on (date)	
Authorisation expiry date	
Proposed revised authorisation expiry date	
Number of times that period of authorisation has been revised	

SIGNATURE

Signature of applicant or duly authorised agent	
Name	
Date of application	

TWELFTH SCHEDULE—continued

SIGNATURE OF WRMA OFFICIAL RECEIVING APPLICATION FOR EXTENSION OF TIME OF AUTHORISATION

Signature of WRMA Official	
Name	
Position	
Date application for renewal received	

OFFICIAL SECTION

(To be filled in by WRMA officials)

WRMA Action	Decision	Date	Comment/Reference
Time extension accepted			
Rejected			
Conditional acceptance			
Authorisation valid until (date)			

Form: WRMA 006

The Chief Executive Officer,
Water Resources Management
Authority,
P.O. Box 45250 – 00100
NAIROBI



Catchment:
WRMA I.D.:
File:

Water Resources Management Authority
EXTENSION OF TIME LIMIT FOR AN AUTHORISATION
(Rule 36)

The period within which the works authorised by Authorisation No. P, dated, issued to, shall be completed, is hereby extended, subject to the conditions endorsed on the above mentioned authorisation and to the under mentioned conditions, to the (date)

Type of water use	Surface water				Groundwater		Effluent discharge	Swamp drainage
	Diversion	Abstraction	In-stream works	Storage	Shallow well	Borehole		
Tick box								

PARTICULARS OF APPLICANT	DETAILS
1. Full name of applicant(s) (in block letters)	2.
3. Category of applicant—individual, group (association, society), company, institution	

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

4. I.D. number of applicant (individual) or Certificate of Incorporation or registration for groups or companies			
5. PIN number (where available)			
(i) Physical address where water is to be used		(ii) Contact address of applicant	
6. L/R number(s)		7. Box number	
8. Village(s)/ward(s)		9. Town	
10. Sub-location(s)		11. Post code	
12. Location(s)		13. Telephone contact (landline)	
14. Division(s)		15. Telephone contact (mobile)	
16. District(s)		17. E-mail contact	

WATER RESOURCE DETAILS

18. Name of body of water or aquifer where water is to be diverted, abstracted or stored	
19. Is the point of abstraction or storage in a protected area or a groundwater conservation area? (Yes/No)	
20. Sub-catchment number	
21. Class of water resource	
22. Name of body of water or aquifer where effluent is to be discharged	
23. Sub-catchment number (effluent)	
24. Class of water resource (effluent)	
25. Category of application (class of permit)	

This extension of time limit is issued subject to the special conditions shown below:

- 1.
- 2.

.....
SIGNATURE

Yours faithfully,

Signature of WRMA officer	
Name of officer	
Position of officer	
Date of signature	

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

Form: WRMA 007

The Chief Executive Officer,
Water Resources Management
Authority,
P.O. Box 45250 – 00100
NAIROBI



Catchment:
WRMA I.D.:
File:

Water Resources Management Authority
INSPECTION REPORT

(Rule 38)

Type of water use	Surface water				Groundwater		Effluent discharge	Swamp drainage
	Diversion	Abstraction	In-stream works	Storage	Shallow well	Borehole		
Tick box								

PARTICULARS OF OWNER OF WORKS OR LAND INSPECTED		DETAILS	
1. Full name of applicant(s) (in block letters)		2.	
3. Category of applicant—individual, group (association, society), company, institution			
4. I.D. number of applicant (individual) or Certificate of Incorporation or registration for groups or companies			
5. PIN number (where available)			
(i) Physical address where water is to be used		(ii) Contact address of owner of works or land inspected	
6. L/R number(s)		7. Box number	
8. Village(s)/ward(s)		9. Town	
10. Sub-location(s)		11. Post code	
12. Location(s)		13. Telephone contact (landline)	
14. Division(s)		15. Telephone contact (mobile)	
16. District(s)		17. E-mail contact	

WATER RESOURCE DETAILS

18. Name of body of water or aquifer where water is to be diverted, abstracted or stored	
19. Is the point of abstraction or storage in a protected area or a groundwaterconservation area? (Yes/No)	

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

20. Sub-catchment number	
21. Class of water resource	
22. Name of body of water or aquifer where effluent is to be discharged	
23. Sub-catchment number (effluent)	
24. Class of water resource (effluent)	
25. Category of application (class of permit)	

QUANTITY WATER AUTHORISED/PERMITTED

26. Description of project and intended use for water				
Type of water use	Groundwater (m ³ /day)	Surface water (m ³ /day)		
		River – normal condition	River – flood condition	Lake
27. Public				
28. Domestic				
29. Livestock				
30. Minor irrigation				
31. General irrigation				
32. Industry/commercial				
33. Power				
34. Others				
35. Sub-total				
36. Quantity returned				
37. Water abstracted (row 42-row 44)				
38. Effluent discharge				

Remarks regarding status, condition, compliance of works with authorisation or permit conditions	
Recommended action to be taken by owner of works	
Recommended action to be taken by WRMA	

SIGNATURE OF WRMA OFFICIAL

Signature of WRMA Official	
Name	

TWELFTH SCHEDULE—continued

Position	
Date inspection undertaken	

Form: WRMA 008

The Chief Executive Officer,
Water Resources Management
Authority,
P.O. Box 45250 – 00100
NAIROBI



Catchment:
WRMA I.D.:
File:

Water Resources Management Authority
COMPLETION CERTIFICATE

(To be submitted in triplicate)

(Rule 38)

I, (name) being the holder of
authorisation to construct works No. do hereby
state that the proposed works have been constructed in accordance with the conditions contained in
the authorisation. Any changes between the original proposed design and final as-constructed
arrangement has been documented and such documentation submitted to the Authority.

Type of water use	Surface water				Groundwater		Effluent discharge	Swamp drainage
	Diversion	Abstraction	In-stream works	Storage	Shallow well	Borehole		
Tick box								

PARTICULARS OF APPLICANT		DETAILS	
1. Full name of applicant(s) (in block letters)			
2. Category of applicant—individual, group (association, society), company, institution			
3. I.D. number of applicant (individual) or Certificate of Incorporation or registration for groups or companies			
4. PIN number (where available)			
(i) Physical address where water is to be used (see sketch)		(ii) Contact address of applicant	
5. L/R number(s)		6. Box number	
7. Village(s)/ward(s)		8. Town	
9. Sub-location(s)		10. Post code	
11. Location(s)		12. Telephone contact (Landline)	
13. Division(s)		14. Telephone contact (Mobile)	
15. District(s)		16. E-mail contact	

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

WATER RESOURCE DETAILS

17. Name of body of water or aquifer where water is to be diverted, abstracted or stored	
18. Is the point of abstraction or storage in a protected area or a groundwater conservation area? (Yes/No)	
19. Sub-catchment number	
20. Class of water resource	
21. Name of body of water or aquifer where effluent is to be discharged	
22. Sub-catchment number (effluent)	
23. Class of water resource (effluent)	
24. Category of application (class of permit)	

QUANTITY WATER REQUIRED

25. Brief description of project and intended use for water				
Type of water use	Groundwater (m ³ /day)	Surface water (m ³ /day)		
		River – normal condition	River – flood condition	Lake
26. Public				
27. Domestic				
28. Livestock				
29. Subsistence irrigation				
30. Commercial irrigation				
31. Industry/Commercial				
32. Hydropower				
33. Others				
34. Sub-total				
35. Quantity returned				
36. Water abstracted (row 33-row 34)				
37. Effluent discharge				

SIGNATURE

Signature of applicant or duly authorised agent	
Name	
Date of application	

TWELFTH SCHEDULE—continued

SIGNATURE OF WRMA OFFICIAL RECEIVING COMPLETION CERTIFICATE

Signature of WRMA official	
Name	
Position	
Date application received	

Form: WRMA 009A

The Chief Executive Officer,
Water Resources Management
Authority,
P.O. Box 45250 – 00100
NAIROBI



Catchment:
WRMA I.D.:
File:

Water Resources Management Authority
BOREHOLE COMPLETION RECORD

(To be submitted in triplicate)

(Rule 76, 77)

Borehole No.
Borehole Name
Formation

PARTICULARS OF APPLICANT		DETAILS	
1. Full name of applicant(s) (in block letters)			
2. Category of applicant—individual, group (association, society), company, institution			
3. I.D. number of applicant (individual) or Certificate of Incorporation or registration for groups or companies			
(i) Physical address where water is to be used (see sketch)		(ii) Contact address of applicant	
4. L/R number(s)		5. Box number	
6. Village(s)/ward(s)		7. Town	
8. Sub-location(s)		9. Post code	
10. Location(s)		11. Telephone contact (landline)	
12. Division(s)		13. Telephone contact (mobile)	
14. District(s)		15. E-mail contact	

PARTICULARS OF CONTRACTOR

16. Box number		22. License number	
17. Town		23. Gazetted on	

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

18. Post code		24. Drilling supervisor	
19. Telephone contact (landline)		25. Type and make of drill rig	
20. Telephone contact (mobile)			
21. E-mail contact			

INTENDED USE OF WATER

Public W.S.; irrigation; industries; domestic; stock and other	
--	--

PARTICULARS OF BOREHOLE

Type of borehole:- drilled; driven; bored; jetted; other					
Borehole construction (also see sketch page 3)					
Drilling started (date)		Drilling completed (date)		All work completed (date)	
Total depth reported (m)		Measured (m)		Final (backfilled) depth (m)	
Hole diameter (mm)		From (m)		To (m)	
Hole diameter (mm)		From (m)		To (m)	
Hole diameter (mm)		From (m)		To (m)	
Hole diameter (mm)		From (m)		To (m)	

Permanent Casing									
Plain									
Type		Diam (mm)		Length (m)		From (m)		To (m)	
Type		Diam (mm)		Length (m)		From (m)		To (m)	
Type		Diam (mm)		Length (m)		From (m)		To (m)	
Slotted or Perforated:									
Size and Description of Openings									
Type		Diam (mm)		Length (m)		From (m)		To (m)	
Type		Diam (mm)		Length (m)		From (m)		To (m)	
Screen									
Type and make									

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

Diameter (mm)		Length (m)		Set from (m)		To (m)	
Gravel							
Pack							
Size of grains (mm)		Roundness (good, fair, poor)		Volume inserted in annular space (m ³)			
		From (m)		To (m)			
Open Hole							
Diam. (mm)		From (m)		To (m)			
Aquifer							
1 st Water struck at (m)				Water rest level (m)			
2 nd Water struck at (m)				Water rest level (m)			
Main aquifer struck at (m)				Water rest level (m)			
Water bearing material		From (m)		To (m)			
Other aquifers, remarks, etc. (also see log on page 3)							
Yield: SWL (m)		PWL (m below surface)		Discharge (litres per minute)			
After pumping (hours)				Recovered to SWL in (minutes)			
Expected production discharge (litres per hour)				With pump set at (m below surface)			

<i>Pumping test record</i> in summary (detailed test records on attached sheets): (all depth measurements to be in metres below ground surface)		
	Test No. 1	Test No. 2
Date of test (day, month, year)		
Depth of borehole at time of test (m)		
Water entry (perforations or screen setting at time of test)	From (m)	From (m)
	To (m)	To (m)
Static water (SWL) before test (m)		
Type of pump (bailer) used		

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

Depth of pump intake (m)		
Discharge (in litres per minute)		
Pumping water level (PWL m)		
After pumping continuously for (hours)		
Time of recovery to original SWL (minutes)		
Rate of recovery – WL after 5 minutes (m)		
Rate of recovery – WL after 20 minutes (m)		
Rate of recovery – WL after 60 minutes (m)		
Rate of recovery – WL after 180 minutes (m)		

(Additional pumping tests to be mentioned in REMARKS and included with file).

Government representative witnessing the test

Quality of Water					
Sample (Yes/No)		Collected (hour)	at		On (date)
Sediment		Taste			Odour
Colour		Temperature (0°C)			Spec. Conductivity (µmho/cm ³ .)

Remarks: (drilling difficulties, gravel-pack details, all pertinent information about the drilling and completion of the hole)

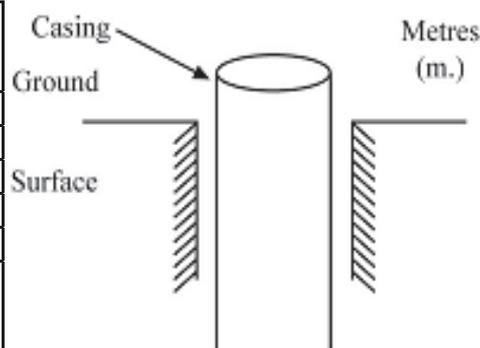
Drilling Supervisor		Drilling Contractor	
Signature		Signature	
Name		Name	
Date		Date	

Borehole No.

1. Driller's Log

From (m)	To (m)	Drilling rate (m/hr)	Description of formation penetrated

2. Sketch of Borehole Construction:



Water

[Subsidiary]

TWELFTH SCHEDULE—*continued*

Authorised water use(s).....
 Pump intake depth m bgl Maximum authorised abstraction rate m³/hr

All borehole completion records duly completed should be sent to the appropriate WRMA Regional Office.

Form: WRMA 009B

The Chief Executive Officer,
 Water Resources Management
 Authority,
 P.O. Box 45250 – 00100
NAIROBI



Catchment:
 WRMA I.D.:
 File:

Water Resources Management Authority
WELL COMPLETION RECORD

(To be submitted in triplicate)

(Rules 76, 77)

Well authorisation No.
 Well name
 Geological formation

PARTICULARS OF APPLICANT		DETAILS	
1. Full name of applicant(s) (in block letters)			
2. Category of applicant—individual, group (association, society), company, institution			
3. I.D. number of applicant (individual) or Certificate of Incorporation or registration for groups or companies			
(i) Physical address where water is to be used (see sketch)		(ii) Contact address of applicant	
4. L/R number(s)		10. Box number	
5. Village(s)/ward(s)		11. Town	
6. Sub-location(s)		12. Post code	
7. Location(s)		13. Telephone contact (landline)	
8. Division(s)		14. Telephone contact (mobile)	
9. District(s)		15. E-mail contact	

PARTICULARS OF CONTRACTOR (IF APPLICABLE)

16. Box number		21. E-mail contact	
17. Town		22. License number	
18. Post code		23. <i>Gazetted</i> on	
19. Telephone contact (landline)		24. Drilling supervisor	
20. Telephone contact (mobile)			

TWELFTH SCHEDULE—continued

INTENDED USE OF WATER

Public; irrigation; industry; domestic; livestock; other	
--	--

PARTICULARS OF WELL

Type of well: hand-dug; machine-dug; other					
Well construction (also see Figure 1)					
Construction started (date)		Construction completed (date)		All works completed (date)	
Total depth reported (m)		Measured (m)		Final (back-filled) depth (m)	
Well diameter (mm)		From (m)		To (m)	
Well diameter (mm)		From (m)		To (m)	
Well diameter (mm)		From (m)		To (m)	
Hole diameter (mm)		From (m)		To (m)	

Permanent Lining where relevant (if well is not lined, state "unlined" in the box below)

Plain									
Type		Diam (mm)		Length (m)		From (m)		To (m)	
Type		Diam (mm)		Length (m)		From (m)		To (m)	
Type		Diam (mm)		Length (m)		From (m)		To (m)	

Screens or equivalent where relevant (if well is not lined, state "unlined" in the box below)

Size / Description of Openings									
Type		Diam (mm)		Length (m)		From (m)		To (m)	
Type		Diam (mm)		Length (m)		From (m)		To (m)	

Gravel Pack

Size of grains (mm.)		Roundness (good, fair, poor)		Volume inserted into annular space (m ³ .)	
From (m)		To (m)			

Open Hole

Diam (mm)		From (m)		To (m)	
-----------	--	----------	--	--------	--

Aquifer

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

Water Struck at (m)				Water Rest Level (m)			
Water		From (m)		To (m)			
bearing material							
Other aquifers, remarks etc. (also see log on page 4), technical information (specific capacity, transmissivity) etc...							
<i>Pumping Test Record</i> in summary (detailed test records on attached sheets): (all depth measurements to be in metres below ground surface)							
Information to be provided				Test No. 1	Test No. 2		
Date of test (day, month, year)							
Depth of well at time of test							
Water entry (aquifer zone)				From	From		
				To	To		
Static water level (SWL) before test							
Type of pump or bailer used							
Depth of pump intake							
Discharge (in m ³ /hr)							
Distance from well to point of discharge of water pumped							
Pumping water level (PWL) at end of test							
After pumping continuously for (hours)							
Time of recovery to start SWL (minutes)							
Rate of recovery – WL after 5 minutes							
Rate of recovery – WL after 20 minutes							
Rate of recovery – WL after 60 minutes							
Rate of recovery – WL after 180 minutes							
Full test data and curves to be appended to this form							

(Additional pumping tests to be given in REMARKS below and included in the file)

Authority representative witnessing the test

<i>Quality of Water</i>							
Sample (Yes/No)		Collected (hour)	at		On (date)		
Sediment		Taste			Odour		
Colour		Temperature (°C)			Electrical conductivity (µS/cm.)		
Full chemical and bacteriological data to be appended to this form							

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

Remarks: (construction difficulties and any pertinent information about the construction and completion of the well)			
Drilling Supervisor		Drilling Contractor	
Signature		Signature	
Name		Name	
Date		Date	

Well Number

Well Name

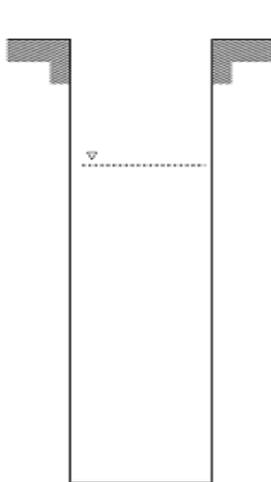
1. *Constructor's Log* (Hydrogeologist's Log to be appended to this form if applicable).

From (m)	To (m)	Description of formation penetrated	From (m)	To (m)	Description of formation penetrated

Remarks or additional information on Driller's log or on sketch of Well:

.....

2. Figure 1. *sketch of well construction*: (Sketch to include: details of well headworks and sanitary protection, depths and changes of hole diameter, lining positions, type and diameter of lining and related information if applicable, location of aquifer (and screens if applicable), if casing closed at bottom, show how, formation caving zones, and any other pertinent information).



Headworks:

Sanitary seal details:

Static water level (m. bgl):

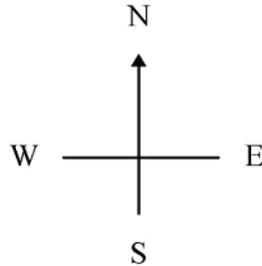
Aquifer material:

Final depth (m):

[Subsidiary]

TWELFTH SCHEDULE—continued

3. Figure 2. Location Sketch: (To be sketched by the constructor or applicant on-site, showing latrines, septic tanks or sewerage network and distances, roads, tracks and prominent land marks, road distances to nearest town or trading centre and to nearest alternative water source).



For Official Use Only: complete as applicable

Entered on schedule (Yes/No) Water sample received (Yes/No)
Geological samples received (Yes/No) Chemical analysis received (Yes/No)
Geological samples filed (Yes/No) Geologist's Log available (Yes/No)
Location plotted on Maps (Yes/No)
Hydrogeological Report No. of (Date) by (Name)
Well data entered and checked by (Name) Signature
Geophysical curve No. of (Date) by (Name)
Permit details
Permit number Authorised abstraction m³/d
Authorised water use(s).....
Pump intake depth m. bgl
Maximum authorised abstraction rate m³/hr

All Well completion records duly completed should be sent to the appropriate WRMA Regional Office.

Form: WRMA 010

The Chief Executive Officer,
Water Resources Management
Authority,
P.O. Box 45250 – 00100
NAIROBI



Catchment:
WRMA I.D.:
File:

Water Resources Management Authority
WATER PERMIT

(Rule 38)

By virtue of the authority vested in us by the Water Act 2002, we, the Water Resources Management Authority, do hereby grant unto (name)
....., hereinafter called the permit holder, or his/her/their executors, administrators and assigns permission to use water in accordance with the details contained herein, subject to the provisions of the Water Act 2002, and the Rules thereunder, and the conditions following hereafter and endorsed hereon and attached hereto:—

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

Permit No. P		Permit Expiry Date	
--------------	--	--------------------	--

Type of water use	Surface water				Groundwater		Effluent discharge	Swamp drainage
	Diversion	Abstraction	In-stream works	Storage	Shallow well	Bore-hole		
Tick box								

PARTICULARS OF PERMIT HOLDER			DETAILS		
1. Full name of applicant(s) (in block letters)					
2. Category of applicant—individual, Group (association, society), company, institution					
3. I.D. number of applicant (individual) or Certificate of Incorporation or registration for groups or companies					
4. PIN number (where available)					
(i) Physical address where water is to be used			(ii) Contact address of applicant		
5. L/R number(s)			6. Box number		
7. Village(s)/ward(s)			8. Town		
9. Sub-location(s)			10. Post Code		
11. Location(s)			12. Telephone contact (landline)		
13. Division(s)			14. Telephone contact (mobile)		
15. District(s)			16. E-mail contact		

WATER RESOURCE DETAILS

17. Name of body of water or aquifer where water is to be diverted, abstracted or stored.	
18. Is the point of abstraction or storage in a protected area or a groundwater conservation area? (Yes/No)	
19. Sub-catchment number	
20. Class of water resource	
21. Name of body of water or aquifer where effluent is to be discharged	
22. Sub-catchment number (effluent)	
23. Class of water resource (effluent)	
24. Category of application (class of permit)	

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

SUPPLEMENT TO PERMITS

25. Does permit include supplements approved under section 21 of WRMA Rules (Yes/No)	
26. List reference number for each supplement	

Brief description of project and intended use for water				
	Groundwater (m ³ /day)	Surface water (m ³ /day)		
		River – normal condition	River – flood condition	Lake
1. Public				
2. Domestic				
3. Livestock				
4. Subsistence irrigation				
5. Commercial irrigation				
6. Industry/commercial				
7. Hydropower				
8. Others				
9. Sub-total				
10. Quantity returned				
11. Water abstracted (row 9-row 11)				
12. Effluent discharge				
13. Basic human needs				

CONDITIONS OF PERMIT	DETAILS
Availability of resource	When the resource availability drops into the reserve, the permit holder is only entitled to basic human needs
Water quality report	
Payment of water use charges	
Inspections	
1.	
2.	
3.	
4.	

TWELFTH SCHEDULE—continued

Other technical details	
Effluent discharge requirements	
Meter I.D. numbers related to this permit	
1.	
2.	
3.	

SURFACE WATER - ABSTRACTION, DIVERSION, IN-STREAM AND CONVEYANCE WORKS

Grid reference for works (UTM, based on ARC 1960 Datum, Zone 36/37)	
Easting	
Northing	
altitude (m above sea level)	
map sheet	
Weir (1) or Collection Chamber (2)	
Dimensions—	
width/diameter (m)	
length (m)	
height (m)	
Materials	
Compensation flow capacity (m ³ /day)	
Pump	
Type of pump	
Type of driving machine	

Water

[Subsidiary]

TWELFTH SCHEDULE—*continued*

Power source of driving machine (diesel, electric, wind, water)	
Maximum power rating (KVa)	
Expected operating head (m)	
Delivery rate at expected operating head (m ³ /hr)	
Expected operating hours (hrs)	
Canal	
Length (m)	
Top width (m)	
Bottom width (m)	
Lined or unlined	
Lining material	
Gradient (m/100m or %)	
Maximum velocity (m/s)	
Maximum capacity (m ³ /day)	
pipeline—	
Internal diameter of delivery pipe (mm)	
Maximum capacity (m ³ /day)	

GROUNDWATER

Grid reference for works (UTM, based on ARC 1960 Datum, Zone 36/37)	
Easting	
Northing	
altitude (m. above sea level)	
map sheet	
W.R.M.A. number of well/borehole	
Total depth of well/borehole	
Depth to which the cylinder or suction pipe may be installed	

STORAGE DAM

Name of dam	
Class of dam (A, B or C)	
Grid reference for dam (UTM, based on ARC 1960 Datum, Zone 36/37)—	
Easting	
Northing	
altitude (m above sea level)	
map sheet	
Spillway	

TWELFTH SCHEDULE—continued

Dimensions at control—	
width (m)	
length (m)	
height (m)	
Embankment	
Material (earth, concrete, masonry, others)	
Dimensions—	
width at crest (m)	
length at crest (m)	
upstream slope (1 to . . .)	
downstream slope (1 to . . .)	
maximum depth of water (measured from bed to normal water level) (m)	
maximum height of embankment (m)	
Gross freeboard (m)	
Net freeboard (m)	
Impoundment	
Estimated impounded volume (m ³)	
Other details	
Maximum draw-off capacity (m ³ /day)	
Maximum compensation flow capacity (m ³ /day)	

SWAMP DRAINAGE

Name of swamp	
Size of swamp to be drained (ha.)	
Purpose of swamp drainage (agricultural, residential, recreational, public health, industrial, abstraction)	
Means of swamp drainage (tick as appropriate)	
channelling or canalisation of flows	
diversion of inflow	
expected % of inflow waters to be diverted	
construction of drainage canals or drainage pipes	
Expected reduction in water level in swamp (m)	

EFFLUENT DISCHARGE

Grid reference for effluent discharge point (UTM, based on ARC 1960 Datum, Zone 36/37)—	
Easting	
Northing	

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

altitude (m. above sea level)	
map sheet	
Source of water supply	
Source of effluent (domestic, institutions, industrial, agricultural, urban)	
Mode of discharge (pipe, canal, ...)	
Maximum daily effluent discharge (m ³ /day)	
Details of treatment system—	
chemical	
settling	
anaerobic digesters	
oxidation or aerated ponds	
natural or constructed wetland	
other (specify)	
retention time (days)	
Nature of pollutants (Chemical, biological, physical)	

EFFLUENT QUALITY

Parameter	Units	Guideline value	Parameter	Units	Guideline value
BOD (5 days at 20°C)	mg/l		Total phosphorous	mg/l	
COD	mg/l		Total nitrogen	mg/l	
Total Dissolved Solids	mg/l		Total suspended solids	mg/l	
pH	pH scale		Metals	mg/l	
Temperature	°C		Non metal toxics (sulphides, cyanides, fluorides)	mg/l	
Total Coliforms	Counts/100ml		Pesticide residues	µg/l	
Turbidity or colour	NTU/Hazen		Phenols	mg/l	
Ammonia-NH ₃	mg/l		Oils and grease	mg/l	
Ammonium-NH ₄	mg/l		Others		
Nitrite-NO ₂	mg/l				
Nitrate-NO ₃	mg/lc				

.....
SIGNATURE

TWELFTH SCHEDULE—continued

Yours faithfully,

Signature of WRMA Officer	
Name of Officer	
Position of Officer	
Date of Signature	

Form: WRMA 011

The Chief Executive Officer,
Water Resources Management
Authority,
P.O. Box 45250 – 00100
NAIROBI



Catchment:
WRMA I.D.:
File:

Water Resources Management Authority
APPLICATION FOR RENEWAL OF WATER PERMIT

(To be submitted in triplicate) (Rule 44)

I, the undersigned hereby apply for renewal of the Permit No.

I, certify that the works have been maintained and the water used in accordance with the provisions of the permit referred to above.

Type of water use	Surface water				Groundwater		Effluent discharge	Swamp drainage
	Diversion	Abstraction	In-stream works	Storage	Shallow well	Borehole		
Tick box								
Attach form	1B	1B	1B	1C	1D	1D	1E	1F

PARTICULARS OF APPLICANT	DETAILS
1. Full name of applicant(s) (in block letters)	2.
3. Category of applicant—individual, group (association, society), company, institution	
4. I.D. Number of applicant (individual) or Certificate of Incorporation or registration for groups or companies	
5. PIN number (where available)	
(i) Physical address where water is to be used	(ii) Contact address of applicant

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

6. L/R number(s)		7. Box number	
8. Village(s)/ward(s)		9. Town	
10. Sub-location(s)		11. Post code	
12. Location(s)		13. Telephone contact (landline)	
14. Division(s)		15. Telephone contact (mobile)	
16. District(s)		17. E-mail contact	

WATER RESOURCE DETAILS

18. Name of body of water or aquifer where water is to be diverted, abstracted or stored	
19. Is the point of abstraction or storage in a protected area or a groundwater conservation area? (Yes/No)	
20. Sub-catchment number	
21. Class of water resource	
22. Name of body of water or aquifer where effluent is to be discharged	
23. Sub-catchment number (effluent)	
24. Class of water resource (effluent)	
25. Category of application (class of permit)	

Note— Shaded Areas to be filled in by WRMA Officials

QUANTITY WATER REQUIRED

26. Description of project and intended use for water				
Type of water use	Groundwater (m ³ /day)	Surface water (m ³ /day)		
		River – normal condition	River – flood condition	Lake
27. Public				
28. Domestic				
29. Livestock				
30. Subsistence irrigation				
31. Commercial irrigation				
32. Industry/commercial				
33. Hydropower				
34. Others				
35. Sub-total				
36. Quantity returned				

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

37. Water abstracted (row 42- row 44)				
38. Effluent discharge				

FEES SUBMITTED

Category A, B, C or D class permit	Amount (KES)
Permit Fees	
AMOUNT PAID	
Receipt number	

SIGNATURE

Signature of applicant or duly authorised agent	
Name	
Date of Application	

SIGNATURE OF WRMA OFFICIAL RECEIVING PERMIT RENEWAL APPLICATION

Signature of WRMA Official	
Name	
Position	
Date application for renewal received	

OFFICIAL SECTION
(To be filled in by WRMA Officials)

WRMA Action	Decision	Date	Comment/Reference
Recommended			
Rejected			
Conditional recommendation			
Permit renewed until (date)			

Form: WRMA 012

The Chief Executive Officer,
Water Resources Management
Authority,
P.O. Box 45250 – 00100
NAIROBI



Catchment:
WRMA I.D.:
File:

Water Resources Management Authority
APPLICATION FOR VARIATION OF WATER PERMIT

(To be submitted in triplicate) (Rule 42)

I, (name) the holder of permit
No. do hereby apply for a variation to the permit.

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

The need to vary the permit has been caused by (state cause)

.....

Which item(s) of the permit is/are changing?	Original value	New value	Comments

Type of water use	Surface water				Groundwater		Effluent discharge	Swamp drainage
	Diversion	Abstraction	In-stream works	Storage	Shallow well	Borehole		
Tick box								
PARTICULARS OF PERMIT HOLDER					DETAILS			
1. Full name of applicant(s) (in block letters)								
2. Category of applicant—individual, group (association, society), company, institution								
3. I.D. Number of applicant (Individual) or Certificate of Incorporation or registration for groups or companies								
4. PIN number (where available)								
(i) Physical address where water is to be used					(ii) Contact address of applicant			
5. L/R number(s)					6. Box number			
7. Village(s)/ward(s)					8. Town			
9. Sub-location(s)					10. Post code			
11. Location(s)					12. Telephone contact (landline)			
13. Division(s)					14. Telephone contact (mobile)			
15. District(s)					16. E-mail contact			

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

WATER RESOURCE DETAILS

17. Name of body of water or aquifer where water is to be diverted, abstracted or stored	
18. Is the point of abstraction or storage in a protected area or a groundwater conservation area? (Yes/No)	
19. Sub-catchment number	
20. Class of water resource	
21. Name of body of water or aquifer where effluent is to be discharged	
22. Sub-catchment number (effluent)	
23. Class of water resource (effluent)	
24. Category of application (class of permit)	

FEES SUBMITTED

Category A, B, C or D class permit	Amount (KES)
Application Fees for variation	
Receipt number	

SIGNATURE

Signature of applicant or duly authorised agent	
Name	
Date of application	

SIGNATURE OF WRMA OFFICIAL RECEIVING APPLICATION TO VARY PERMIT

Signature of WRMA official	
Name	
Position	
Date application for variation received	

OFFICIAL SECTION

(To be filled in by WRMA officials)

WRMA action	Decision	Date	Comment/Reference
Variation accepted			
Rejected			
Conditional acceptance			
Permit valid until (date)			

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

Form: WRMA 013

The Chief Executive Officer,
Water Resources Management
Authority,
P.O. Box 45250 – 00100
NAIROBI



Catchment:
WRMA I.D.:
File:

Water Resources Management Authority
APPLICATION FOR TRANSFER OF WATER PERMIT

(To be submitted in triplicate)

(Rule 41)

I, (name), being the holder of permit
No., do hereby apply for the permit to be transferred to
(name)
I confirm that all other particulars of the permit remain the same.
The need to transfer the permit has been caused by (state cause)
.....
.....
.....

Type of water use	Surface water				Groundwater		Effluent discharge	Swamp drainage
	Diversion	Abstraction	In-stream works	Storage	Shallow well	Borehole		
Tick box								

PARTICULARS OF CURRENT PERMIT HOLDER				DETAILS			
1. Full name of applicant(s) (in block letters)							
2. Category of applicant—individual, group (association, society), company, institution							
3. I.D. number of applicant (individual) or Certificate of Incorporation or registration for groups or companies							
4. PIN number (where available)							
(i) Physical address where water is to be used				(ii) Contact address of applicant			
5. L.R. number(s)				6. Box number			
7. Village(s)/ward(s)				8. Town			
9. Sub-location(s)				10. Post code			
11. Location(s)				12. Telephone contact (landline)			
13. Division(s)				14. Telephone contact (mobile)			
15. District(s)				16. E-mail contact			

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

PARTICULARS OF PROPOSED PERMIT HOLDER		DETAILS	
17. Full name of applicant(s) (in block letters)			
18. Category of applicant—individual, group (association, society), company, institution			
19. I.D. Number of applicant (individual) or Certificate of Incorporation or registration for groups or companies			
(i) Physical address where water is to be used		(ii) Contact address of applicant	
20. L/R number(s)		21. Box number	
22. Village(s)/ward(s)		23. Town	
24. Sub-location(s)		25. Post code	
26. Location(s)		27. Telephone contact (landline)	
28. Division(s)		29. Telephone contact (mobile)	
30. District(s)		31. E-mail contact	

WATER RESOURCE DETAILS

32. Name of body of water or aquifer where water is to be diverted, abstracted or stored	
33. Is the point of abstraction or storage in a protected area or a groundwater conservation area? (Yes/No)	
34. Sub-catchment number	
35. Class of water resource	
36. Name of body of water or aquifer where effluent is to be discharged	
37. Sub-catchment number (effluent)	
38. Class of water resource (effluent)	
39. Category of application (class of permit)	

FEES SUBMITTED

Category A, B, C or D class permit	Amount (KES)
Application fees for transfer of permit	
Receipt number	

SIGNATURE

Signature of applicant or duly authorised agent	
Name	
Date of application	

SIGNATURE OF WRMA OFFICIAL RECEIVING PERMIT TRANSFER APPLICATION

Signature of WRMA official	
----------------------------	--

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

Name	
Position	
Date application for renewal received	

OFFICIAL SECTION

(To be filled in by WRMA officials)

WRMA Action	Decision	Date	Comment/Reference
Transfer accepted			
Rejected			
Conditional acceptance			
Permit valid until (date)			

SIGNATURE

Signature of applicant or duly authorised agent	
Name	
Date of application	

Form: WRMA 014

The Chief Executive Officer,
Water Resources Management
Authority,
P.O. Box 45250 – 00100
NAIROBI



Catchment:
WRMA I.D.:
File:

Water Resources Management Authority
APPLICATION FOR SEARCH OF WATER PERMIT
(Rule 47)

I, (name), request that the Water Resources Management Authority provide me with a copy of the Water Permit in respect of the person or parcel of land shown below (submit as much information as possible)—

PARTICULARS OF PERMIT HOLDER		DETAILS	
1. Full name of permit holder(s) (in block letters)			
2. Category of permit holder—individual, group (association, society), company, institution			
3. Permit number			
(i) Physical address where water is being used		(ii) Contact address of permit holder	
4. L/R number(s)		5. Box number	
6. Village(s)/ward(s)		7. Town	

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

8. Sub-location(s)		9. Post code	
10. Location(s)		11. Telephone contact (landline)	
12. Division(s)		13. Telephone contact (mobile)	
14. District(s)		15. E-mail contact	

WATER RESOURCE DETAILS

16. Name of body of water or aquifer where water is diverted, abstracted or stored	
17. Sub-catchment number	
18. Name of body of water or aquifer where effluent is discharged	
19. Sub-catchment number (effluent)	

FEES SUBMITTED

	Amount (KES)
Search fees	
Receipt number	

SIGNATURE

Signature of applicant or duly authorised agent	
Name	
Date of application	

Form: WRMA 015

The Chief Executive Officer,
Water Resources Management
Authority,
P.O. Box 45250 – 00100
NAIROBI



Catchment:
WRMA I.D.:
File:

Water Resources Management Authority
ASSESSMENT OF WATER USE AND CHARGES

(To be submitted in triplicate)

(Rule 106)

PARTICULARS OF APPLICANT	DETAILS
1. Full name of applicant(s) (in block letters)	
2. PIN number (where available)	
(i) Physical address where water is to be used	(ii) Contact address

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

3. L.R. number(s)		4. Box number	
5. Village(s)/ward(s)		6. Town	
7. Sub-location(s)		8. Post code	
9. Location(s)		10. Telephone contact (landline)	
11. Division(s)		12. Telephone contact (mobile)	
13. District(s)		14. E-mail contact	

WATER RESOURCE DETAILS

15. Name of body of water or aquifer where water is to be diverted, abstracted or stored	
16. Is the point of abstraction or storage in a protected area or a groundwater conservation area?(Yes/No)	
17. Sub-catchment number	
18. Class of water resource	
19. Status of water resource	
20. Name of body of water or aquifer where effluent is to be discharged	
21. Sub-catchment Number (effluent)	
22. Class of water resource (effluent)	
23. Status of water resource (effluent)	
24. Category of Application (Category B, C or D)	

QUANTITY WATER USED

<i>BASED ON MEASUREMENTS</i>			
25. Meter number			
26. Current date of assessment of water used			
27. Date of last assessment			
28. Current meter reading (m ³)			
29. Last meter reading (m ³)			
30. Total consumption (m ³)			
<i>BASED ON ESTIMATE</i>			
31. Estimate of water used (m ³) between current & last assessment			
32. Show calculations/justification for estimate of water used			

CALCULATION OF WATER USE CHARGES AND CURRENT STATEMENT						
		Units	Quantity	Rates	Charges	Instructions
a	b	c	d	e	f	g
1	Total consumption	m ³				
2	Number of days in accounting period	days				
3	DOMESTIC/PUBLIC/LIVESTOCK WATER USE					
4	Amount allocated on permit	m ³ /day				
5	Total amount allocated for accounting period	m ³				Col d (row 4 x row 2)
6	Total amount lawfully used	m ³		0.5	+	Not to exceed col d row 5
7	IRRIGATION WATER USE					
8	Amount allocated on permit	m ³ /day				
9	Total amount allocated for accounting period	m ³				Col d (row 8 x row 2)
10	Total amount lawfully used	m ³ /day				Not to exceed col d row 9
11	Volume of water charged at lower rate	m ³		0.5	+	Max vol = col d row 2 x 300
12	Volume of water charged at higher rate	m ³		0.75	+	Col d row 10 – row 11
13	INDUSTRIAL/COMMERCIAL WATER USE					
14	Amount allocated on permit	m ³ /day				
15	Total amount allocated for accounting period	m ³				Col d (row 14 x row 2)
16	Total amount lawfully used	m ³				Not to exceed col d row 15
17	Volume of water charged at lower rate	m ³		0.5	+	Max vol = col d row 2 x 300
18	Volume of water charged at higher rate	m ³		0.75	+	Col d row 10 – row 11

[Subsidiary]

		Units	Quantity	Rates	Charges	Instructions
a	b	c	d	e	f	g
19	FISH FARMING WATER USE					
20	Amount allocated on permit	m ³ /day				
21	Total amount allocated for accounting period	m ³				Col d (row 20 x row 2)
22	Total amount lawfully used	m ³		0.05	+	Not to exceed col d row 21
23	HYDROPOWER					
24	Total amount of hydropower generated	Kw hr				
25	Total amount of hydropower charged	Kw hr		0.05	+	If (row 24 – 1)>1, then row 24 – 1
26	All water use charges				+	Sum Col f Rows 6, 11, 12, 17, 18, 22, 25
27	EXTRAS					
28	Water resource conservation charge for abstraction or effluent within a GWCA or protected area			0.05	+	Col f row 26 x 0.05
29	Penalty for lack of flow measuring device			0.1	+	Col f row 26 x 0.1
30	Incentive for flood water conservation			0.1	-	Col f row 26 x 0.1 (note negative sign)
31	Penalty for over abstraction					
32	Total water used	m ³				Col d row 1
33	Total water lawfully used	m ³				Sum Col d rows 6, 10, 16, 22
34	Total water used in excess of permit	m ³		1.0	+	Col d (row 32 – row 33)

		Units	Quantity	Rates	Charges	Instructions
				KShs	KShs	
a	b	c	d	e	f	g
35	TOTAL WATER USE CHARGES THIS PERIOD				+	Sum Col f rows 26, 28, 29, 30, 34
36						
37	STATEMENT					
38	Previous balance				+	
39	Payments within last period				-	
40	Outstanding balance				+	Col f (row 38 – row 39)
41	Interest Charges				+	Col f row 40 x 0.02 x 3 months
42	TOTAL AMOUNT DUE					Sum Col f rows 35, 40, 41

I certify that the information presented in this form provides an accurate estimate of the quantity of water used and the water use charges due.

Name	
Signature	
Date	

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

Form: WRMA 016

The Chief Executive Officer,
Water Resources Management
Authority,
P.O. Box 45250 – 00100
NAIROBI



Catchment: _____
WRMA I.D.: _____
File: _____

Water Resources Management Authority
(THE WATER ACT 2002)
ORDER

(Rule 8)

PARTICULARS OF PERSON ISSUED WITH ORDER			
1. Full name of receiving order (in block letters)			
(i) Physical address where water is to be used		(ii) Contract address	
2. L/R number(s)		3. Box Number	
4. Village (s)/ward(s)		5. Town	
6. Sub-location(s)		7. Post Code	
8. Location(s)		9. Telephone contact (landline)	
10. Division(s)		11. Telephone contact (mobile)	
12. District(s)		13. E-mail contact	

WATER RESOURCE DETAILS

14. Name of body of water or aquifer related to order	
---	--

You are hereby required to undertake the following action by the deadline stated below:

Action required	
Deadline	

You are required to notify the Authority when you have complied with this order.

Issued by:

Signature of officer	
Name of officer	
Position of officer	
Date of Signature	

Reference— Rule 8 of WRMA Rules

TWELFTH SCHEDULE—continued

Form: WRMA 017

The Chief Executive Officer,
Water Resources Management
Authority,
P.O. Box 45250 – 00100
NAIROBI



Catchment:
WRMA I.D.:
File:

Water Resources Management Authority

**APPLICATION FOR AUTHORITY TO ENTER INTO AND UPON LANDS OF OTHER
LANDHOLDERS FOR THE PURPOSE OF INVESTIGATION AND SURVEYING IN CONNECTION
WITH A PROPOSED APPLICATION FOR A PERMIT OR EASEMENT**

(To be submitted in triplicate)

(Rule 11)

PARTICULARS OF APPLICANT		DETAILS	
1. Full name of applicant(s) (in block letters)			
2. PIN number (where available)			
(i) Physical address where water is to be used		(ii) Contact Address	
3. L/R number(s)		4. Box Number	
5. Village(s)/ward(s)		6. Town	
7. Sub-location(s)		8. Post code	
9. Location(s)		10. Telephone contact (landline)	
11. Division(s)		12. Telephone contact (mobile)	
13. District(s)		14. E-mail contact	

DETAILS FOR WHICH ENTRY IS REQUIRED

15. Name of body of water or aquifer where water is to be diverted, abstracted or stored	
16. State as specifically as you can the proposed purposes for which you wish to use the water	
17. Give a general description of the proposed project referring where necessary to the Cadastral Map which you are required to submit herewith	
18. State the time in months which you estimate it will take to make the necessary survey and investigations	
19. State when you propose to start the above investigation (give date)	

PERSONS LIKELY TO BE AFFECTED

(Attach extra sheet if required)

Description of land (give L/R No.)	Name of owner	Postal address and tel of the owner or of his duly authorised Agent
1.		
2.		
3.		

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

Description of land (give L/R No.)	Name of owner	Postal address and tel of the owner or of his duly authorised Agent
4.		
5.		
6.		
7.		

APPLICATION FEE

Application fee (KES)	
Receipt number	

SIGNATURE

Signature of applicant or duly authorised agent	
Date of signature	

ATTACHEMENTS	Attached (Yes/No)	Comments/Remarks
Copy of identification documents		
Copy of land documents (land registrar)		
Relevant maps		
Copy of receipt for payment		

Form: WRMA 018

The Chief Executive Officer,
Water Resources Management
Authority,
P.O. Box 45250 – 00100
NAIROBI



Catchment:
WRMA I.D.:
File:

Water Resources Management Authority

APPLICATION FOR REGISTRATION BY WATER RESOURCE USER ASSOCIATION

(To be submitted in triplicate)

(Rule 10)

PARTICULARS OF WRUA APPLICANT		DETAILS	
1. Full name of applicant(s) (in block letters)			
2. Registration number			
3. Date of registration			
(i) Physical address: contact office or person		(ii) Contact address	
4. L/R number(s)		5. Box number	
6. Village(s)/ward(s)		7. Town	

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

8. Sub-location(s)		9. Post code	
10. Location(s)		11. Telephone contact (landline)	
12. Division(s)		13. Telephone contact (mobile)	
14. District(s)		15. E-mail contact	

WATER RESOURCE DETAILS

16. Name of body of water or aquifer for which WRUA is applying	
17. Sub-catchment number	
18. Class of water resource	
19. Status of water resource	

DETAILS OF OFFICIALS

Chairman (name):		Date elected	
Secretary (name):		Date elected	
Treasurer (name):		Date elected	

SIGNATURE BY TWO WRUA OFFICIALS

Name of WRUA official		
Position		
Signature of WRUA official		
Date of Signature		

INFORMATION ATTACHED

Copy of constitution	
Copy of by-laws	
Minutes of last 3 meetings	

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

Form: WRMA 019

The Chief Executive Officer,
Water Resources Management
Authority,
P.O. Box 45250 – 00100
NAIROBI



Catchment:
WRMA I.D.:
File:

Water Resources Management Authority
CERTIFICATE OF REGISTRATION
FOR WATER RESOURCE USER ASSOCIATION
(Rule 10)

Dear Sir/Madam

I have the honour to inform you that the Water Resources Management Authority has registered the Water Resources Users Association.

PARTICULARS OF WRUA APPLICANT		DETAILS	
1. Full name of WRUA (in block letters)			
2. Registration number			
3. Date of registration			
(i) Physical address: contact office or person		(ii) Contact address	
4. L/R number(s)		5. Box number	
6. Village(s)/ward(s)		7. Town	
8. Sub-location(s)		9. Post code	
10. Location(s)		11. Telephone contact (landline)	
12. Division(s)		13. Telephone contact (mobile)	
14. District(s)		15. E-mail contact	

WATER RESOURCE DETAILS

16. Name of body of water or aquifer for which WRUA is applying	
17. Sub-catchment number	
18. Class of water resource	

SIGNATURE OF WRMA OFFICIAL

Signature of WRMA Official	
Name	
Position	
Date of Registration	

TWELFTH SCHEDULE—continued

Form: WRMA 020

The Chief Executive Officer,
Water Resources Management
Authority,
P.O. Box 45250 – 00100
NAIROBI



Catchment:
WRMA I.D.:
File:

Water Resources Management Authority
SUPPLEMENT TO WATER PERMIT/AUTHORISATION
(Rule 21)

Supplement No. to be attached to
*authorisation permit No.:
dated, issued to and declared to form part thereof as if
written or printed thereon (*delete as appropriate).

DETAILS OF SUPPLEMENT

Type of water use	Surface water				Groundwater		Effluent discharge	Swamp drainage
	Diversion	Abstraction	In-stream works	Storage	Shallow well	Borehole		
Tick box								

PARTICULARS OF PERSON TO WHICH SUPPLEMENT APPLIES		DETAILS	
1. Full name (in block letters)			
2. Category of person—individual, group (association, society), company, institution			
3. I.D. Number of applicant (individual) or Certificate of Incorporation or registration for groups or companies			
4. PIN number (where available)			
(i) Physical address where water is to be used		(ii) Contact address	
5. L/R number(s)		6. Box number	
7. Village(s)/ward(s)		8. Town	
9. Sub-location(s)		10. Post code	
11. Location(s)		12. Telephone contact (landline)	
13. Division(s)		14. Telephone contact (mobile)	
15. District(s)		16. E-mail contact	
Brief description of intended use of water covered under Supplement			

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

Signature of WRMA officer	
Name of officer	
Position of officer	
Date of Signature	

Form WRMA 021

(r. 12(3)(a))

WRMA FIELD NOTEBOOK

No.	Date and Time	Place of Incident	Report Made by	Particulars	Classification (as per category of risk)	Action

Page

Guidance Notes:

No space should be left unfilled

All Field Notebook data to be transferred in summary form to the Regional Incident Occurrence Book by close of the week.

Form WRMA 022

(r. 13(24))

WRMA REGIONAL INCIDENT OCCURRENCE REGISTER

Incident No.	Date and Time	Complainant /Affected parties	Location Nature of Incident	Category Level(ABCDEF)	Officer (s)responsible	Report on action/Prosecution, Restoration, Compensation, Civil Claim

Page 1

Note:

Category Level is a classification based on Risk Assessment made by WRMA Risk assessment: To be based on level of impact on resources, affected people, manpower, disruption of normal services, generation of media coverage etc.

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

Form: WRP 001

The Permanent Secretary
Ministry of Water and Irrigation,
P.O. Box 49720 – 00100

Republic of Kenya

NAIROBI

Registration Number:

Ministry of Water and Irrigation
(THE WATER ACT 2002)

APPLICATION FOR REGISTRATION AS
A QUALIFIED WATER RESOURCE PROFESSIONAL

(To be submitted in triplicate)

(Rule 133)

Category being applied for (tick as appropriate)–

Panel I	Panel II	Panel III
A. Water supply (>1000m ³ /day)	A. Water supply (<1000m ³ /day)	Hydrologist
B. Effluent treatment works	B. Effluent treatment works	Hydrogeologist
C1. Class B dams	C. Class A dams	Hydrometeorologist
C2. Class C dams		Chemist
D. Irrigation (>7.500 m ³ /day)	D. Irrigation (<7.500 m ³ /day)	Biologist
		Ecologist

Name (surname first)	
1. Box number	
2. Town	
3. Post code	
4. Telephone contact (landline)	
5. Telephone contact (mobile)	
6. E-mail contact	
7. Age (years)	
8. PIN number	

Provide details of professional training (attach certified copies of certificates)

Institution	Course	Dates	Level Attained

Provide details of employment record

(attach letters from employer confirming position and dates)

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

Employer	Position Held	Dates

Provide Details of Professional Qualifications (Attach Certified copies of Certificates)

Institution	Level	Dates

Provide details of three professional referees

Name	Postal Address	Tel Contact	E-mail Address

Testimonials (You should submit not more than six testimonials to cover as far as possible your training and experience).	The number attached is
--	------------------------------

SIGNATURE

Signature of Applicant	
Date of Signature	

Form: WRP 002

The Permanent Secretary
 Ministry of Water and Irrigation,
 P.O. Box 49720 – 00100
NAIROBI

Republic of Kenya

Registration Number:

Ministry of Water and Irrigation
 (THE WATER ACT 2002)

LICENSE AS A QUALIFIED WATER RESOURCE PROFESSIONAL
 (Rule 134)

Dear Sir/Madam

I have the honour to inform you that the Ministry of Water and Irrigation has given you a license as a qualified water resource professional in the following categories—

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

DETAILS OF QUALIFIED WATER RESOURCE PROFESSIONAL

Name (surname first)			
1. Box number		5. Telephone contact (landline)	
2. Town		6. Telephone contact (mobile)	
3. Post code		7. E-mail contact	
4. PIN number			

DETAILS OF LICENSE

Panel I	Panel II	Panel III	
A. Water supply (>1000m ³ /day)	A. Water supply (<1000m ³ /day)	Hydrologist	
B. Effluent treatment works	B. Effluent treatment works	Hydrogeologist	
C1. Class B dams	C. Class A dams	Hydrometeorologist	
C2. Class C dams		Chemist	
D. Irrigation (>7,500 m ³ /day)	D. Irrigation (<7,500 m ³ /day)	Biologist	
		Ecologist	

Conditions of License:

1. _____
2. _____

Yours faithfully,

SIGNATURE OF MWI OFFICIAL

Signature of Ministry Official	
Name	
Position	
Date	

Form: WRC 001

The Permanent Secretary
 Ministry of Water and Irrigation,
 P.O. Box 49720 – 00100
NAIROBI

Republic of Kenya

Registration Number:

Ministry of Water and Irrigation
 (THE WATER ACT 2002)

APPLICATION FOR REGISTRATION AS A QUALIFIED CONTRACTOR

(To be submitted in triplicate)

(Rule 143)

Category being applied for (tick as appropriate):

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

Category I	Category II
A. Water supply (>1000m ³ /day)	A. Water supply (<1000m ³ /day)
B. Effluent treatment (>1000m ³ /day)	B. Effluent treatment (<1000m ³ /day)
C. Class C dams	C. Class A and B dams
D. Irrigation (>7,500 m ³ /day)	D. Irrigation (<7,500 m ³ /day)
E1. Borehole drilling - Class 1 (<150 m.)	E. Borehole servicing
E2. Borehole drilling - Class 2 (>150 m.)	

Name of Contractor (attach certified copy of registration document)	
1. Box number	
2. Town	
3. Post code	
4. Telephone contact (landline)	
5. Telephone contact (mobile)	
6. E-mail contact	
7. Year established	
8. Physical address of head office	

Provide details of professional staff

Name	Professional qualifications	Years of experience	Position in organisation

Provide Details of Equipment

Type of equipment	Number of units

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

Provide Details of Projects Completed in Last Five Years

Type of project	Name	Client	Contract value (KES)	Date of completion

Provide Details of Three Professional Referees

Name	Postal address	Tel contact	E-mail Address

Testimonials (You should submit not more than six testimonials to cover as far as possible your training and experience.)	The number attached is
--	------------------------------

SIGNATURE

Signature of applicant	
Date of signature	

Form: WRC 002

The Permanent Secretary
 Ministry of Water and Irrigation,
 P.O. Box 49720 – 00100
NAIROBI

Republic of Kenya

Ministry of Water and Irrigation
 (THE WATER ACT, 2002)
LICENCE AS A QUALIFIED CONTRACTOR
 (Rule 144)

Registration Number:

Dear Sir/Madam

I have the honour to inform you that the Ministry of Water and Irrigation has given you a licence as a Qualified Contractor in the following category—

Water

[Subsidiary]

TWELFTH SCHEDULE—continued

DETAILS OF QUALIFIED CONTRACTOR

Name of company			
1. Box number		5. Telephone contact (landline)	
2. Town		6. Telephone contact (mobile)	
3. Post code		7. E-mail contact	
4. PIN number			

DETAILS OF LICENCE

Category I		Category II
A. Water supply (>1000 m ³ /day)		A. Water supply (<1000 m ³ /day)
B. Effluent treatment (>1000 m ³ /day)		B. Effluent treatment (<1000 m ³ /day)
C. Class C dams		C. Class A and B dams
D. Irrigation (>7,500 m ³ /day)		D. Irrigation (<7,500 m ³ /day)
E1. Borehole drilling – Class 1 (<150 m.)		E. Borehole servicing
E2. Borehole drilling – Class 2 (>150 m.)		

Conditions of Licence:

1. _____
2. _____
3. _____

Yours faithfully,

Signature of Ministry Official	
Name	
Position	
Date	

WATER (WATER SERVICES LEVY) REGULATIONS, 2008

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation.
 2. Interpretation.
 3. Imposition of levy.
 4. Water service provider to be remitter.
 5. Returns.
 6. Penalty for non-remittance.
-

[Subsidiary]

WATER (WATER SERVICES LEVY) REGULATIONS, 2008

[L.N. 36/2008.]

1. Citation

These Regulation may be cited as the Water (Water Service Levy) Regulations, 2008.

2. Interpretation

In these Regulations—

“**Board**” means the Water Services Regulatory Board established under section 46 of the Act;

“**levy**” means the Water Services Levy imposed under Regulation 3.

3. Imposition of levy

(1) There is imposed a levy to be known as the Water Services Levy which shall comprise one percent (1%) of all sales of water services to consumers by each water service provider operating under the Act.

(2) The purpose of the levy is to finance the operations of the Board.

4. Water service provider to be remitter

(1) The Water service provider shall be a remitter for purposes of collecting the levy.

(2) Each water service provider shall, on or before the fifteenth day of each month, remit to the Board the amount received by way of the levy in respect of the immediately preceding month.

(3) The manner of remittance of the levy shall be by way of deposit of the same into an account of the Board established for the purpose in accordance with instructions issued by the Board.

5. Returns

The water service provider shall maintain or cause to be maintained a monthly record of the sales of water services and the levy received in respect thereof, and shall forward such record to the Board.

6. Penalty for non-remittance

Where the water service provider fails to remit any amount due and payable by way of the levy on or before the date specified in these regulations, a penalty of one percent (1%) of the outstanding amount shall be added to the amount due for each month or part thereof during which it remains unpaid.

**WATER (WATER SERVICES BOARD) (VARIATION OF LIMITS OF SUPPLY)
ORDER, 2008**

[L.N. 68/2008.]

1. This Order may be cited as the Water (Water Services Board) (Variation of Limits of Supply) Order, 2008.
2. The Limits of Water supply of the Athi Services Board are varied by removing therefrom the districts set out in the first Schedule.
3. The Limits of Water Supply of the Tana Water Services Board are varied by removing therefrom the districts set out in the Second Schedule.

FIRST SCHEDULE

[Para. 2.]

Kajiado
Machakos
Makueni

SECOND SCHEDULE

[Para. 3.]

Kitui
Mwingi

TANATHI WATER SERVICES BOARD, 2008

In exercise of the powers conferred by section 51 of the Water Act, 2002, the Minister for Water and Irrigation constitutes the body named in the first column of the Schedule to be a Water Services Board under the Act, responsible for the efficient and economical provision of water in the districts specified in the second column—

[L.N. 69/2008.]

SCHEDULE

Name	District
Tanathi Water Services Board	Kajiado
	Machakos
	Mwala
	Kangundo
	Yatta
	Loitokitok
	Makueni
	Kibwezi
	Mbooni
	Nzau
	Kitui
	Mutomo
	Mwingi
	Kyuso

WATER (WATER QUALITY ANALYSIS) (FEES) RULES, 2009

[L.N. 71/2009.]

1. These Rules may be cited as Water (Water Quality Analysis (Fees) Rules, 2009.
2. The fees specified in the Schedule shall be payable by the requesting person for the laboratory analysis of water samples in the parameters respectively indicated.
3. The fees shall be payable upon delivery of the water samples to the laboratory for analysis.
4. All fees paid under these Rules shall be non-refundable.

SCHEDULE

[Rule 2.]

A – FULL CHEMICAL ANALYSIS (FCA)

Note: Full Chemical Analysis (FCA) is the complete analysis of water in the parameters indicated.

Table 1: Full Chemical Analysis

Parameter	Unit	Charge Kshs.
PH	pH Scale	5,000
Colour	mgPt/l	5,000
Turbidity	N.T.U	5,000
Permanganate Value (20 min. boiling	mgO ₂ /l	5,000
Conductivity (25°C)	μS/cm	5,000
Iron	mg/l	5,000
Manganese	mg/l	5,000
Calcium	mg/l	5,000
Magnesium	mg/l	5,000
Sodium	mg/l	5,000
Potassium	mg/l	5,000
Total Hardness	mg CaCO ₃ /l	5,000
Total Alkalinity	mg CaCO ₃ /l	5,000
Chloride	mg/l	5,000
Fluoride	mg/l	5,000
Nitrate	mg N/l	5,000
Nitrite	mg N/l	5,000
Ammonia	mg N/l	5,000

Water

[Subsidiary]

SCHEDULE—continued

Parameter	Unit	Charge Kshs.
Total Nitrogen	mg/l	5,000
Sulphate	mg/l	5,000
Orthophosphate	mg/l	5,000
Total Suspended Solids	mg/l	5,000
Free Carbon Dioxide	mg/l	5,000
Dissolved Oxygen	mg/l	5,000
Total Dissolved Solids	mg/l	5,000

Charge: Ksh. 5,000.

B – WASTEWATER/EFFLUENT ANALYSIS

Note: This is the analysis of wastewater and effluent in the parameters indicated

Parameter	Unit	Charge Kshs.
Temperature	°C	8,000
pH	pH Scale	8,000
Conductivity	µS/cm	8,000
BOD ₅ (20°C)	mgO ₂ /l	8,000
COD	mgO ₂ /l	8,000
Heavy metals – Chromium, Cr	mg/l	8,000
Lead, Pb	mg/l	8,000
Mercury, Hg	mg/l	8,000
Copper, Cu	mg/l	8,000
Cadmium, Cd	mg/l	8,000
Zinc, Zn	mg/l	8,000
Total Alkalinity	mg/l	8,000
Total Suspended Solids	mg/l	8,000
Total Dissolved Solids	mg/l	8,000
Oil and Grease	mg/l	8,000
4 Hr. permanganate Value	mg/l	8,000
Salinity	mg/l	8,000
Sulphides as S ²⁻	mg/l	8,000
Total Nitrogen as N	mg/l	8,000
Total Phosphorus as P	mg/l	8,000
Detergents (MBAS)	mg/l	8,000

Charges: KSh. 8,000

SCHEDULE—*continued*

C – BACTERIOLOGICAL ANALYSIS

Note: Bacteriological analysis is the analysis of water for *general coliforms* and *E. Coli*.

Charge: Ksh. 2,000

D – CHARGES FOR INDIVIDUAL PARAMETERS

Note: The charges specified herein apply where a person requests for analysis in respect of each parameter

S/No	Parameter	Charge Kshs.
1	pH	200
2	Turbidity	300
3	Conductivity	300
4	Magnesium	400
5	Total Alkalinity	350
6	Free Carbon Dioxide	200
7	Ortho Phosphate	400
8	Total Phosphorous	500
9	Chloride	300
10	Iron	700
11	Nitrate	500
12	Nitrite	500
13	Total Dissolved Solids	300
14	Sulphates	400
15	Fluoride	400
16	Calcium	400
17	Manganese	700
18	Potassium	350
19	Sodium	350
20	Ammonia	500
21	Total Hardness	600
22	Sulphides	350
23	Dissolved Oxygen	300
24	Temperature	200
25	Chemical Oxygen Demand	1,000
26	Biological Oxygen Dioxide	1,000
27	4 hr Permanganate Value	500
28	Oil and Grease	600

Water

[Subsidiary]

SCHEDULE—*continued*

<i>S/No</i>	<i>Parameter</i>	<i>Charge Kshs.</i>
29	Total Suspended Solids	400
30	Pesticides (each)	8,000
31	Detergents	1,500
32	Free chlorine	300
33	Residual Chlorine	300
34	Total and Faecal Coliform	2,000
35	Total Nitrogen	600
36	Heavy metals (each)	1,000
37	Phenols	500
38	Salinity	300
39	Bacteriological parameters (each, other than General Coliforms and E. Coli)	500