

THE WATER LAWS (MISCELLANEOUS
AMENDMENTS)

ACT, 1999

ARRANGEMENT OF SECTIONS

Section *Title*

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- I. Short title.

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6. Amendment of section 19.
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13. Construction.
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15. Transfer of powers to discharge effluents, etc. to Water Regulator.

FIRST SCHEDULE

THE UNITED REPUBLIC OF TANZANIA



No. 1 OF 1999

I ASSENT,

Benjamin W. Mkapa
President

14th April, 1999.

An Act to amend certain Water Laws.

[.....]

ENACTED by the Parliament of the United
Republic of Tanzania.

PART I

PRELIMINARY

1. This Act may be cited as the Water Laws Short
(Miscellaneous Amendments) Act, 1999 and shall come title
into operation on the date of publication.

PART II

AMENDMENT OF THE DAR ES SALAAM

WATER AND SEWERAGE AUTHORITY ACT, 1981

2. This Part shall be read as one with the Dar es Construction
Salaam Water and Sewerage Authority Act, 1981 in this Act No.7
Part referred to as "the principal Act" of 1981

Amendment of section 3 3. Section 3 of the principal Act is amended by inserting in the appropriate alphabetical order the following new definitions-

"City Authority" means the City Council or any other body for the time being discharging or performing the functions of the City Council;

"DAWASA" means the Dar es Salaam Water and Sewerage Authority;

"DAWASA Designated Area" means the City of Dar es Salaam and the Coast Region as shown on a sketch map and deposited in the office of the Director General;

"Public Granting Authority" means the DAWASA Asset Holding Authority, established under section 5A (1) of this Act;

"Water operator³ or ⁶operator" means a person or body of persons appointed under section 5A to operate the water supply and sewerage services in the DAWASA Designated Area;

"Water Regulator" means the Water Regulator established for the DAWASA Designated area by section 5C;

4. Section 3 of the principal Act is amended by inserting immediately after section 5 the following sections:

		sections 5A,
"Appointment of	5A-(I) DAWASA is	513, 5C, 5D,
water operator	hereby designated as the	5E, 5F, 5G,
and role of	Public Granting Authority	5H, 5I, 5J
Public Granting	and may, by notice	and 5K
Authority	published in the	
	<i>Gazette</i> , appoint water	
	operator or operator to	
	perform the functions and	
	to exercise the powers of	
	the Dar es Salaam Water	
	and Sewerage Authority	
	on such terms and for such	
	period as shall be specified	
	in a contract or agreement	
	made between DAWASA	
	and the operator.	

(2) The contract may provide for the incremental application of the operator's operations over the whole area of **jurisdiction of DAWASA in accordance with a plan**

as shall be stipulated under the contract made under subsection (1).

(3) Notwithstanding subsections (1) and (2), the abstraction and use of water from community and other private water based sources by members of the community concerned which is not meant for commercial purposes in places where the operator's water system has not been installed shall not be unlawful.

(4) During the subsistence of the contract or agreement made under subsection (1), the powers, duties and functions of DAWASA in the area specified in the contract or agreement shall be

exercised and performed
by the operator and
DAWASA shall retain the
powers to perform the
functions and discharge
responsibilities stipulated
under this Act in areas in
which the water operator
or operator has not
extended services.

(5) A contract entered
pursuant to this section
may provide for the lease
and temporary transfer of the
operations, functions and
possession of the fixed and
landed assets of
DAWASA to the operator
for the purposes of the
management of the water
supply and sewerage
services under this Act.

(6) Without prejudice
to the provisions of
subsection (3), the
operator may improve,

upgrade, purchase and add new items to the fixed and landed assets of DAWASA during the subsistence of the contract or agreement made under this section and the new assets purchased and added shall be deemed to have been vested in DAWASA at all times and shall be conveyed back to DAWASA on the determination of the contract.

(7) The responsibilities and powers of DAWASA in its capacity as the Public Granting Authority shall be specified in the contract or agreement made under subsection (1) and shall be subject to necessary modifications as may be agreed by the parties from time to time.

5B. The operator and **DAWASA, in the** exercise of their respective functions under this Act, shall be subject to regulation by the Water Regulator.

Regulation by the Water Regulator

5C.-(I) There is hereby established a Regulator to be known as the Water Regulator for the DAWASA Designated Area.

Establishment of the Water Regulator

(2) The Water Regulator shall be a body corporate capable of suing and being sued, acquiring, holding and disposing of movable and immovable property.

(3) The provisions of the Schedule to this Act shall have effect as to the constitution, proceedings and tenure of office of the Water Regulator.

Appointment of
Members

5D.-(I) There shall be appointed a Chairman and four other members who shall constitute the Water Regulator

(2) The Minister shall nominate suitable persons from among the people knowledgeable in water and public affairs to be members of the *Water Regulator;

(3) The Chairman and other members shall be appointed respectively by the President and the Minister.

(4) No person shall be recommended to be a member unless he possesses the technical qualifications and relevant experience and is of proven integrity in the public service or private sector.

(5) The Minister shall advertise in the media the post of a member whenever there is a vacancy in the

membership of the Water
Regulator.

(6) No member shall
be removed from office
except for gross
misbehaviour or upon
certification by medical
practitioner that any
particular member can no
longer perform his duties
by reason of physical or
mental incapacity.

5E.-(I) The functions
of the Water Regulator in
the DAWASA Designated
Area shall be-

(a) to exercise
licensing and
regulatory
functions in
respect of
water supply
and sewerage
services
including the
establishment

Functions of
Water Regulator

-
- of* standards
relating to
equipment
attached to
water and
sewerage
system;
- (b) to provide
guidelines on
tariffs
chargeable for
provisions of
water supply
and sewerage
services;
- (c) to examine
and approve
tariffs
chargeable for
provisions *of*
water supply
and sewerage
services as submitted by
the public Granting Au-
thority

(d) to protect the
interest of
consumers and
water
operators;

(e) to monitor
water quality
and standards
of
performance
for provision
of water
supply and
sewerage
services;

(f) to initiate and
conduct
investigations
in relation to
standards of
quality of
service given
to consumers;

(g) to promote
fair
competition
among water
operators;

(h) to conduct
studies

necessary for

administrative

or

management

Purposes by

the Water

Regulator;

0) to collect and

compile data

on water

operators as it

considers

necessary for

the

performance

(m) to give
directions to
any person
granted a
licence under
this Act;

(n) to levy
charges and
fees for the
granting of
licences and
other services
provided by
the Water
Regulator as
may in his
opinion be
appropriate;

(o) to lay down
standards and
code of
conduct in
respect of the
water operator
or operator
and

customers-

(P) to perform
other
functions
which are
incidental or
ancillary to
the functions
stipulated
under this
subsection;
and

(q) to prescribe
and publish in
the *Gazette*
and in at least
one Kiswahili
and one
English
newspaper
circulating in
the DAWASA
Designated

Area standards
for services.

(2) Without prejudice to the generality of paragraph (a) of subsection (1), the Water Regulator shall ensure that any water operator by whom water and sewerage services are to be provided, is able to provide requisite services **at tariffs which are** consistent with efficient and continuous service and which are necessary for maintaining independent financial viability.

(3) To promote the development **of water** supply and sewerage services in accordance

with practicable
recognised international
standard practices and
public demand.

5F-(I) Where the Operator falls to discharge his functions under this Act, the Water Regulator may, by notice in writing addressed to the Operator, call upon him to show cause why his contract should not be terminated and licence withdrawn in such respects as may be specified in the notice. -

Enforcement
powers of
Regulator

(2) If, within one month of the service of such notice no reply has been received by the Water Regulator, the Water Regulator may

declare the contract and licence terminated.

(3) The Operator upon whom a notice has been served under subsection (1) may, within one month of such service, submit to the Water Regulator a statement in writing of reasons why the contract and licence should not be terminated or may require to be heard on the matter.

(4) The Water Regulator shall consider any statement submitted to him under subsection (3) and shall if is required, give the Operator an opportunity of being heard in person or by an advocate and may, by notice in writing addressed

to the Operator-

- (a) declare the
licence and
contract
terminated;
or
- (b) request the
Water
Operator to
abide by the
provisions of
the Act in the
discharge of
his functions
and provide
proof of
having done
so within a
specified
period,
following
which, if the
Water

Regulator is
dissatisfied,
declare the
licence and
contract
terminated;
or

- (c) declare the
contract and
licence
uncharged.

(5) The Water

Regulator may, for the
purpose of discharging its
powers of enforcement,
call upon any consumer, or
Water Operator to give
information on the matters
and in the manner as may
be prescribed.

(6) If the Water

Regulator is satisfied that
the Water Operator is

contravening or has
contravened any of the
conditions of the licence,
contract or the provisions
of this Act or regulations,
he may-

- (a) declare the
contract
terminated;
or
- (b) cancel or
suspend the
licence for
such a period
as the Water
Regulator
thinks fit; or
- (c) require the
payment of a
fine of the
amount as
the Water
Regulator

- thinks fit; or
- (d) where the default is one capable of being remedied, the Water Regulator will serve on the Water Operator a notice in writing specifying the default and requiring the Water Operator to remedy the same within a specified time.
- (7) The Water

Operator aggrieved by the decision of the Water Regulator may, within thirty days of the licence being withdrawn, canceled, or suspended and the contract terminated, appeal to the High Court on procedural issues, or on grounds that the decision of the Water Regulator was based on erroneous factors.

(8) A person served with a notice by the Water Regulator may appeal to the High Court in the manner set out in this section on any of the following grounds-

- (a) that the notice or requirement

is not
justified by
the terms oil'
the law under
which it
purports to
have been
given or
made;

(b) that the
works
required by
the notice to
be executed
are
unreasonable
in character
or extent;

(c) that the time
within which
the works are
to be
executed is

not
reasonably
sufficient for
the purpose;
(9) The time
within which any
appeal may be
brought under the
provisions of this
section shall be
thirty days from
the date when the
notice was served
on the Water
Operator.

5G. A member shall	Limitation of
not be personally liable for	liability
any act or omission	
committed in good faith in	
the course of carrying out	
the responsibilities of, or	
exercising the powers	

conferred upon the Water Regulator under this Act.

Secretariat

5H-(I) The Water Regulator shall employ officer and supporting staff as may be necessary in accordance with the terms of their respective appointments who shall perform such administrative functions of the Water Regulator and as may be assigned to them.

(2) Officers and other staff employed by the Water Regulator shall be deemed to be public servants and shall, subject to subsection (1), be governed by the relevant water regulations.

**Financial
Provisions**

51-(I) The funds of the Water Regulator shall be derived from surcharge on water and sewerage tariffs payable by customers to the operator as may be determined from time to time after consultations between the operator and DAWASA.

(2) Without prejudice to subsection (1), the Water Regulator shall have power to fix and vary from time to time, the fees or rates payable for services rendered and shall publish such fees and rates in the Gazette and in at least one Kiswahili and one English newspapers circulating in the DAWASA Designated

Area.

3) The Water Regulator may receive for the Purposes of its functions, donations, grants, bequests, loans or appropriations from any person or institution within or Outside the United Republic of Tanzania.

Accounts and
Audit

5J-(I) The Water Regulator shall cause to be provided and kept proper books of account and records with respect to-

- (a) the receipt and expenditure of moneys by, and other financial transactions of the Water

Regulator;
(b) financial
statements and
a balance
sheet for every
financial year.

(2) Within six months of the
close of every financial year the
accounts including the balance
sheet of the Water Regulator in
respect of that financial year shall
be audited by a reputable firm of
auditors registered under the Act No. 22
the National Board of of 1972
Accountants and Auditors Act,
1972.

(3) For the purposes of the
business of the Water Regulator,
the expression "financial year"
means any period of twelve
consecutive months, and the first
financial year shall commence on
the date when the Water
Regulator is established in terms
of the provisions of section 5C.

**Annual
and
supple-
mentary
budget**

5K.-(1) The Water **Regulator shall** prepare the annual budget and every supplementary budget, which shall include all details as the Minister **may** direct.

(2) Immediately upon passing any annual budget or any supplementary budget the Water Regulator shall submit that budget to the Minister for approval.

(3) The Minister shall, upon receipt of the annual budget or any supplementary budget, approve or disapprove that budget or may approve it subject to amendments which may be made by him.

**Annual
Report**

5L-(I) The Water Regulator shall cause to be prepared and sent to the Minister within six months after the close of each financial year, an annual report dealing generally with the activities and operations of the Water Regulator during that year.

(2) The report shall be accompanied by-

(a) a copy of the audited
accounts together

with the auditor's
report on the
accounts;

(b) any other reports on
its financial affairs as
the Minister may by
writing direct from
time to time.

(3) The Minister shall, as soon
as practicable after receiving the
report or reports, lay the annual
report before the National
Assembly.

5. Section 6 of the principal Act is amended by repealing
Subsection (1) and substituting for it the following subsec-
tion:

Amendments
Section 6

"(1) Subject to the provisions of section 5A and
subsection 5B there shall be established a Board
of Directors of the authority which shall be
responsible for carrying out the functions and
affairs of DAWASA.-

Amendment of section 19	6. Section 19 of the principal Act is amended by renumbering the existing section 19 as subsection (1) and by inserting immediately after the renumbered subsection (1) the following subsection: "(2) The operator may cut off or withdraw the supply of water or sewerage services from any premises in respect of which any tariffs or other charges in connection with the supply or services have not been fully paid within thirty days following the notification sent and received by the owner of the premises which notice shall contain in clear terms the details of the tariffs or other charges which remain unpaid."	
Repeal and replacement of section 29	7. The principal Act is amended by repealing section 29 and replacing it with the following: "Transfer of employees	29.-(1) Subject to subsection (4) every person who immediately before the coming into operation of this Act was employed by DAWASA and the Directorate of Sewerage and sanitation Department in connection with the management of water supply and sewerage services shall continue in the employment of the Authority or shall subject to subsection (2), transfer his employment to the operator.

(2) Upon the appointment of the operator pursuant to section 5A the allocation of employees to the operator shall be effected in accordance with prior arrangement made between DAWASA, the Directorate of Sewerage and Sanitation Department and the operator.

(3) Every employee of DAWASA shall, on the coming into operation of this Act, be retained by DAWASA, the Directorate of Sewerage and Sanitation Department or be transferred to the operator on terms which are not less favourable than those applicable to him transfer pursuant to this section.

(4) An arrangement made between DAWASA and the operator, shall not include a condition preventing DAWASA, the Directorate of Sewerage and Sanitation Department or the operator, as the case may be, to retrench any employee

DAWASA or the Directorate of Sewerage and Sanitation Department.

(5) Where a person who is transferred to the service of the operator under this section was a member of any statutory or Voluntary, pension scheme or provident fund he shall continue to be governed by the same laws and regulations under those schemes and his service with the operator shall be deemed to be service with DAWASA or the Directorate of Sewerage and Sanitation Department as the case may be.

Amendment of section 33 8. Section 33 of the principal Act is amended by repealing subsection (1) and replacing it with the following-

"Power to charge tariffs shall charge tariffs, fees or other charges for water supplied, sewerage or other services rendered or facilities availed to customers in accordance 33.-(I) The operator

with the rates authorised
by the Water Regulator
and published in the
Gazette and in at least one
Kiswahili and one English
newspapers circulating in
the area concerned."

(b) the donations, grants, bequests and loans as the Authority may from time to time receive from any person or institution within and outside the United Republic of Tanzania."

Vesting of
assets and
liabilities of
former NUWA

10. Subject to equities and the provisions of this Act, and notwithstanding the repeal of section 10, all assets and liabilities of the Directorate of Sewerage and Sanitation Department and of the defunct national Urban Water Authority situated within the water supply area of the City of Dar es Salaam and the Coast Region outstanding immediately before disestablishment of the National Urban Water Authority, shall be deemed to have been vested in the Dar es Salaam Water Supply and Sewerage Authority.

Re-naming
of the
Schedule

11. The Principal Act is amended by renaming the "FIRST", "SECOND" and the "THIRD" Schedules as "SECOND", "THIRD)" and "FORTH" schedules respectively

Amendment
of the
Schedule

12. The Principal Act is amended m the Second Schedule by deleting clause(e) of paragraph I Q) and substituting for it the following-

"(p) four other members two of whom shall be the Mayor and the one being the Director of the City Authority and two other persons who are residents in the Coast Region. "

PART III

AMENDMENT OF THE WATER UTILISATION

(CONTROL AND REGULATION) ACT, 1974

13. This Part shall be read as one with the Construction Water Utilization (Control and Regulation) Act, 1974 hereinafter referred to as "the-principal Act".

14. Section 18A of the principal Act is amended Amendment of by repealing subsection (2) and replacing it with the section 18A following:

44(2) The Water Regulator may, upon recommendations made by the Central Water Board in that behalf, make provisions for the

FIRST SCHEDULE

Under section 5C(3)

Composition
of Water

I.-(I) The Water Regulator shall consist of a
Chairman and four other members.

Regulator and
tenure of
office

(2) There shall be the Executive Secretary who shall,
on the recommendation of the Board be appointed by the Presi-
dent for a term of five years or more and may be. re-appointed
for one further term and shall be responsible for the management
of the day to day affair of the office of the Water Regulator.

(3) The tenure of Office of other members shall
not be co-extensive but staggered from one to three
years, but every member may be re-appointed for one
more term of three years.

(4) The Water Regulator may, by special
resolution, delegate any of its functions to any person
subject to such terms as may be specified in the
instrument of delegation.

(5) The Executive Secretary shall be the
Secretary to the Board.

Meetings of
Water
Regulator

2.-(I) The Chairman shall preside at all meetings
of the Water Regulator and in his absence any one of the
remaining members shall preside.

(2) The Water Regulator shall meet at least once
in a month at a place indicated in a notice issued by the
Chairman.

3.-(I) Three members shall constitute a quorum at any meeting of the Water Regulator. Quorum arid voting

(2) All acts, matters and things authorized to be done by the Water Regulator shall be decided by the resolution of the majority of members present and voting and in the event of equality of votes a member chairing a meeting shall have a casting vote in addition to his deliberative vote.

(3) Without prejudice to sub-paragraphs (1) and (2) the Chairman may in writing, circulate papers for decision by members but any member may request for the holding of a meeting to discuss any of the matters in the papers circulated for decision and such request shall be complied with.

4. Minutes in proper form of each meeting shall be kept and signed by the Chairman or a member chairing the meeting and the Secretary of the meeting after adoption by the Water Regulator. Minutes of proceedings

5. Subject to the provisions of this Schedule and any regulations which were made or may be made under this Act, the Water Regulator shall have powers to regulate its own procedure. Procedure at meeting

6. The seal of the Water Regulator shall not be affixed to any instrument except in the presence of the Chairman or a member acting on behalf of the Chairman and the Secretary. Affixing seal

Autonomy

7. In the performance of its functions under this Act, the Water Regulator shall have regard to the public interest and shall take into account the interests of the stakeholders but, save as otherwise provided in this Act, shall act in its own discretion.

Disclosure of
interest by
Members

8. A member shall declare his interest in any matter which is brought for deliberation by the Water Regulator, and that member shall abstain from participating in any further deliberation on that matter.

Remuneration

9. The terms of service of staff of the office of the Water Regulator as well as their remunerations shall be determined after consultation with the Department of the Civil Service and any other relevant authority.

Resignations
of
a member

10. A member may resign by tendering a notice of resignation three months before the date on which he intends to resign, to the person who appointed him or shall pay to the Water Regulator one month salary in lieu of notice.

Passed in the National Assembly on the 5th February, 1999.


Clerk of the National Assembly