

THE WATER SUPPLY AND SANITATION ACT, 1997

Arrangement of Sections

PART I

PRELIMINARY

Section

1. Short title and commencement
2. Interpretation

PART II

THE NATIONAL WATER SUPPLY AND SANITATION COUNCIL

3. Establishment of Council
4. Functions of Council
5. General powers of Council
6. Technical Advisory Committee
7. Director and Deputy Director
8. Secretary and other staff of Council

PART III

WATER SUPPLY AND SANITATION UTILITIES

Section

9. Incorporation of utilities as companies
10. Obligation to supply water and sanitation services

PART IV

LICENSING OF UTILITIES AND SERVICE PROVIDERS

11. Licensing of utilities and service providers
12. Application for licence
13. Issue of licence
14. Refusal to issue licence
15. Appeal from decision of Council
16. Conditions of licence
17. Failure to commence operations
18. Transfer of licence
19. Amendment of licence
20. Enforcement notices
21. Suspension or cancellation of licence
22. Register of utilities and service providers

**Water Supply and
Sanitation**

PART V

POWERS OF UTILITIES AND SERVICE PROVIDERS

Section

- 23 Acquisition of land for water supply or sanitation purposes
- 24 Powers to execute works and consultation by developer
- 25 Powers to cut into streets
- 26 Powers to reduce levels of service
- 27 Powers to establish and maintain easements
- 28 Rights of entry
- 29 Compensation for damage in the exercise of powers
- 30 Maintenance of water and sewerage supply lines
- 31 Prohibition of certain activities relating to facilities
- 32 Rights over private facilities

PART VI

INSPECTIONS

- 33 Appointment of inspectors
- 34 Powers of inspectors
- 35 Duty of inspector to report to Council

PART VII

MISCELLANEOUS

- 36 Appeals
- 37 Monetary penalties
- 38 General penalty
- 39 Regulations and by-laws
- 40 Transitional provision

SCHEDULE

PART I

THE NATIONAL WATER SUPPLY AND SANITATION COUNCIL

Paragraph

1. Seal of Council
2. Composition of Council
3. Tenure of office and vacancies
4. Proceedings of Council
5. Committees of Council
6. Disclosure of interest
7. Prohibition of publication or disclosure of information to unauthorised persons
8. Remuneration and allowances

PART II

FUNDS OF COUNCIL

9. Funds of Council
10. Investment of funds
11. Financial year
12. Accounts
13. Annual Report

GOVERNMENT OF ZAMBIA

ACT

No. 28 of 1997

Date of Assent: 11th November, 1997

An Act to establish the National Water Supply and Sanitation Council and define its functions; to provide for the establishment, by local authorities, of water supply and sanitation utilities; to provide for the efficient and sustainable supply of water and sanitation services under the general regulation of the National Water Supply and Sanitation Council; and to provide for matters connected with or incidental to the foregoing.

[14th November, 1997

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY

1. This Act may be cited as the Water Supply and Sanitation Act, 1997. Short title
2. In this Act, unless the context otherwise requires- Interpretation
 - “Chairperson” means the person elected Chairperson of the Council under paragraph 2 of Part I of the Schedule;
 - “consumer” means a direct beneficiary of water supply or sanitation services;
 - “Council” means the National Water Supply and Sanitation Council established under section *three*;
 - “Deputy director” means the person appointed Deputy Director of the Council under section *seven*;

**Water Supply and
Sanitation**

“Director” means the person appointed Director of the Council under section *seven*;

“facilities” means all structures, systems, pipes, appurtenances and any plant and equipment, whether located on private or public premises or on private or public land, necessary to provide water supply or sanitation services by any person providing the service, or which is used by any consumer of water supply or sanitation services;

Cap. 281

“Local Authority” means a Council established under the Local Government Act;

“Sanitation service” means-

- (a) the disposal, on-site or off-site, of human excreta;
- (b) the collection of sewerage, excluding untreated toxic waste and storm water, from residential, commercial or industrial sources; or
- (c) the treatment and disposal of waste water in accordance with this Act and the standards established under the Standards Act, the Public Health Act, Environmental Protection and Pollution Control Act or any other written law;

Cap. 416
Cap. 295
Cap. 204

“Secretary” means the person appointed Secretary of the Council under section *eight*;

“Service Provider” means any person who provides water supply or sanitation services;

“Sewage” means soil water, waste water or manufacturing or trade effluent;

“utility” means a water supply and sanitation utility established by a local authority in accordance with section *nine*; and

“Vice-chairperson” means the person elected Vice-Chairperson of the Council under paragraph 2 of Part I of the Schedule.

PART II

THE NATIONAL WATER SUPPLY AND SANITATION COUNCIL

Establishment of
Council

3. (1) There is hereby established the National Water Supply and Sanitation Council which shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name and with power, subject to this Act, to do all such acts and things as a body corporate may by law do or perform.

**Water Supply and
Sanitation**

(2) The Schedule shall apply to the Council.

4. (1) Subject to the other provisions of this Act, the functions of Council shall be to do all such things as are necessary to regulate the provision of water supply and sanitation services. Functions of Council

(2) Without prejudice to the generality of subsection (1), the functions of the Council shall be to -

- (a) advise the Government on water supply and sanitation matters;
- (b) advise local authorities on commercially viable institutional arrangements for the provision of water supply and sanitation services;
- (c) licence utilities and other service providers as well as other activities relating to the provision of water;
- (d) develop sector guidelines for:-
 - (i) the provision of water supply and sanitation services;
 - (ii) the establishment of water supply and sanitation utilities;
 - (iii) the technical and financial management of utilities; and
 - (iv) the setting of tariffs for the provision of water supply and sanitation services;
- (e) establish and enforce standards for:-
 - (i) water supply or sanitation services;
 - (ii) the management of utilities and other service providers;
 - (iii) the design, construction, operation and maintenance of water supply and sanitation facilities;
- (f) advise utilities and other service providers on procedures for handling complaints from consumers;
- (g) disseminate information to consumers on matters relating to water supply and sanitation services; and
- (h) carry out any other activities relating to the regulation of water supply or sanitation services which are necessary or conducive to the better performance of its functions under this Act.

**Water Supply and
Sanitation**

General powers of
Council

5. The Council may direct any utility or service provider to-

- (a) take such action as may be necessary or expedient to enable the Government to comply with any international agreements to which the Government is a party;
- (b) deliver its services in such a manner as shall ensure compliance with this Act; or
- (c) submit such information and records as are necessary to enable the Council to monitor the performance of such utility or service provider.

Technical Advisory
Committee

6. (1) The Council shall constitute a Technical Advisory Committee whose members shall be experts in fields relevant to the provision of water supply or sanitation services.

- (2) Subject to subsection (1), the Council shall appoint three persons from the public sector and four persons from the private sector as members of the Technical Advisory Committee on such terms and conditions as the Council may determine.
- (3) The functions of the Technical Advisory Committee shall be to advise the Council on-
 - (a) the formulation of policies, standards, guidelines and regulations relating to the provision of water supply or sanitation services;
 - (b) water conservation efficiency, sustainability of water use and waste water re-use; and
 - (c) any other matter referred to it by the Council

Director and Deputy
Director

7. (1) The Council shall appoint, on such terms and conditions as it may determine, a Director who shall be the chief executive officer of the Council and who, subject to the control of the Council, shall be responsible for the administration of the affairs of the Council.
- (2) The Council may delegate to the Director, subject to any specific or general conditions that the Council may impose, such functions of the Council, under this Act, as are necessary to enable the Director transact the day-to-day business of the Council.
 - (3) The Council may appoint a Deputy Director who shall assist the Director in the performance of the Director's functions under this Act.

**Water Supply and
Sanitation**

- (4) The Deputy Director shall discharge the functions of the Director whenever there is a vacancy in the office of Director or if the Director is absent for any other cause.
- (5) The Director, or in the Director's absence the Deputy Director, shall attend meetings of the Council and may attend meetings of any committee established by the Council, and may address such meetings, but shall not vote on any matter.

Provided that the person presiding at a meeting may, for good cause, require the Director or Deputy Director, as the case may be, to withdraw from the meeting.

- (6) The provisions of paragraph 6 of the Schedule shall apply, with the necessary modifications, to the Director and the Deputy Director.

8. (1) There shall be a Secretary to the Council who shall be appointed by the Council on such terms and conditions as the Council shall determine.

Secretary and other staff of Council

(2) The Secretary shall be responsible, under the general supervision of the Director, for the administration of the day-to-day affairs of the Council.

(3) The Council may appoint, on such terms and conditions as the Council may determine, such other staff as it considers necessary for the performance of its functions under this Act.

PART III

WATER SUPPLY AND SANITATION UTILITIES

9. (1) A local authority may resolve to establish a water supply and sanitation utility as a company under the Companies Act as follows:-
- (a) as a public or private company;
- (b) as a joint venture with an individual or with any private or public company;
- (c) as a joint venture with another local authority or several other local authorities.

Incorporation of utilities as companies
Cap. 388

Provided that the majority shares shall be held by the local authority.

- (2) The articles of a utility incorporated in accordance with subsection (1) shall state that the utility's primary business is to provide water supply and sanitation services.

**Water Supply and
Sanitation**

Obligation to provide water supply and sanitation services

- 10.** (1) Notwithstanding any other law to the contrary and subject to the other provisions of this Act, a local authority shall provide water supply and sanitation services to the area falling under its jurisdiction, except in any area where a person provides such services solely for that person's own benefit or a utility or a service provider is providing such services.
- (2) Notwithstanding sub-section (1) and any other law to the contrary, and subject to the other provisions of this Act, where a local authority is unable, for whatever reason, to supply water and sanitation services to a locality within its jurisdiction, and no such services are being provided by any service provider, the local authority may contract any person or other service provider to do so.
- (3) A utility or service provider contracted to provide services under sub-section (2), shall have power to enforce by-laws relating to the provision of water supply and sanitation services as may be issued by the local authority.

PART IV

LICENSING OF UTILITIES AND SERVICE PROVIDERS

Licensing of Utilities and service providers

- 11.** (1) A utility or a service provider shall not operate except in accordance with this Act and under the authority of a licence issued under this Act.

(2) Subsection (1) shall not apply to a person who provides water supply or sanitation services solely for that person's own use.

Application for licence

- 12.** (1) A person may apply to the Council for a licence to operate a utility or to be a service provider.

(2) An application under subsection (1) shall-

- (a) be accompanied by a prescribed fee;
- (b) be in such form as may be prescribed by the Minister, by statutory instrument; and
- (c) specify the following-
 - (i) the name of the utility or service provider,
 - (ii) the principal place of business of the utility or service provider;
 - (iii) the shareholders in the utility or the owners or shareholders of the service provider;

**Water Supply and
Sanitation**

- (iv) the names and qualifications of the senior staff of the utility or service provider;
- (v) the type of water supply or sanitation facilities to be provided and used;
- (vi) the short and long term plans of the utility or service provider outlining:-
 - A) plans for the provision of an efficient, affordable and sustainable water supply or sanitation service;
 - B) performance targets; and
 - C) financial and infrastructural improvements; and
- (vii) any other details as the Minister may, by statutory instrument, prescribe on the advice of the Council.

13. The Council shall, within sixty days of receipt of an application for a licence under section *twelve*, issue a licence, subject to any condition specified under section *sixteen*, if-

Issue of licence

- (a) the application is in accordance with the provisions of this Act; and
- (b) the water supply or sanitation services to be provided do not contravene any laws and regulations in force in Zambia.

(2) Subject to section *sixteen* a licence issued under this section shall be valid for a minimum period of ten years and shall be renewed for a like period if the applicant has been complying with the provisions of this Act and on payment of a fee prescribed by the Minister, by statutory instrument.

14. (1) Where the Council is not satisfied with an application for a licence, as not being in accordance with this Part, it shall, within sixty days from receipt of the application, refuse to issue the licence to the utility or service provider.

Refusal to issue licence

(2) A decision of the Council rejecting an application shall be accompanied by the reasons for the rejection.

15. Any applicant for a licence who is aggrieved by a decision of the Council made under section *fourteen* may appeal to the Minister, subject to a further appeal to the High Court.

Appeal from decision of Council

**Water Supply and
Sanitation**

- Conditions of licence
- 16.** A utility or service provider issued with a licence under section *thirteen* shall-
- (a) construct and maintain water supply service lines and where necessary, according to its licence, sewer systems to the boundary of a consumer's property;
 - (b) operate in accordance with the plans submitted under subsection (2) of section *twelve*;
 - (c) comply with the general directives issued by the Council in the exercise of its functions under the section *five*;
 - (d) keep a record of its water or sanitation services in a form specified by the Council and submit the record to the Council every year from the commencement of the licence; and
 - (e) comply with any other condition which the Council shall consider relevant for the proper operation of the utility or service provider.
- Failure to commence operations
- 17.** (1) Where the holder of a licence is unable to commence operations within twelve months from the date of issue of a licence under this Part, the holder of such licence shall, forthwith, notify the Council of such failure giving reasons thereof; and the Council shall, if satisfied with the reasons, specify the period within which such holder shall comply with the terms of the licence.
- (2) Where the holder of a licence is unable to supply water or sanitation services, in accordance with the licence, the holder of the licence shall notify the Council, of such fact, in writing, and shall surrender the licence to the Council.
- (3) Where a period of twelve months from the date of issue of a licence has expired without the holder of the licence supplying water or sanitation services in accordance with the terms of the licence and no notification has been made in accordance with this section, the licence shall lapse and shall, subject to section *twenty*, be cancelled; and the Council shall publish such information in accordance with section *twenty*.
- Transfer of licence
- 18.** (1) A licence shall not be transferred to a third party, directly or indirectly, without the prior approval of the Council but such approval shall not unreasonably be withheld.
- (2) Every application for approval to transfer a licence shall be made to the Council and the Council may, within thirty days of the application, approve the application in accordance with this Act.

**Water Supply and
Sanitation**

- 19.** The Council may amend a licence on the application of the holder of a licence- Amendment of
licence
- (a) where some other person has succeeded to the interest in the business enterprise belonging to the holder of the licence, by substituting for the name of the holder the name of the successor;
- (b) where the name of the business enterprise is altered, by substituting the name so altered; or
- (c) for any other reason submitted by the applicant of the licence which the Council may consider to be necessary for the improvement of the provision of water supply or sanitation services.
- 20.** (1) Where the Council is satisfied that a utility or service provider is contravening or is likely to contravene any provision of this Act, or directive issued by the Council in the exercise of its functions under section *five* or any other condition of the licence, the Council shall serve an enforcement notice on that utility or service provider. Enforcement
notices
- (2) An enforcement notice issued under subsection (1) shall-
- (a) state the contravention or the likely contravention of the Act, directive or any other condition of the licence and the matters constituting the contravention or making it likely that the contravention will arise;
- (b) specify the steps that have to be taken to remedy the contravention or avoid the contravention, as the case may be; and
- (c) specify the effective date of the notice and the time limit within which the steps described under paragraph (b) have to be taken.
- (3) The Council shall, within seven days after serving the notice referred to in subsection (1)-
- (a) publish a copy of the notice in the Gazette;
- (b) serve a copy on the local authority within whose area the utility or service provider discharges its functions; and
- (c) publicise the notice in the public media to persons likely to be affected by it.

**Water Supply and
Sanitation**

Suspension or
cancellation of
licence

21. (1) Subject to the other provisions of this Act, the Council may suspend or cancel any licence if the holder of the licence-

- (a) obtained the licence by fraud or deliberate or negligent submission of false information;
- (b) transfers or otherwise assigns a licence without the prior approval of the Council;
- (c) contravenes this Act or any terms and conditions of the licence;
- (d) fails, without reasonable cause, to comply with an enforcement notice issued under section *twenty*; or
- (e) fails without reasonable cause, to provide the water supply or sanitation services within the time stipulated under this Act.

(2) The Council shall, before suspending or cancelling a licence in accordance with subsection (1), give its written notice to the holder of the licence of its intention to suspend or cancel the licence and specify the grounds for the suspension or cancellation and require the utility or service provider to show cause, within a period of not more than thirty days, why the licence should not be suspended or cancelled.

(3) The Council shall not suspend or cancel a licence, under this section, if the holder of the licence takes remedial measures, to the satisfaction of the Council, within the period of thirty days referred to in subsection (2).

(4) If the holder of a licence, notified under subsection (2), fails to show cause, to the satisfaction of the Council or does not take remedial measures to the satisfaction of the Council, within the time specified in that subsection, the Council may suspend or cancel the licence.

(5) Notwithstanding any other provisions of this Act, where a licence has been suspended or cancelled the Minister responsible for local government may, in the national interest after giving the proprietor an opportunity of being heard, direct that the utility or service provider be operated under the management and control of a competent person (in this section referred to as the "statutory manager").

(6) A statutory manager shall be appointed by the Minister for such period and upon such terms and conditions as the Minister thinks fit.

**Water Supply and
Sanitation**

(7) The Statutory Manger shall, during the statutory manager's term of appointment, keep the Minister informed on all matters relating to the utility or service provider under the statutory manager's control.

(8) Any expenses connected with the appointment of a statutory manager and the management of a utility or service provider by the statutory manager shall be a charge on the revenues of the utility or service provider to which the statutory manager is appointed.

(9) Notwithstanding the provisions of subsections (5), (6), (7) and (8), the suspension or cancellation of a licence and the appointment of a statutory manager, under this section, shall not prejudice or affect the security of any debenture holder or mortgage or the right of enforcing such security.

(10) Any person who is aggrieved by any decision of the Council under this section may appeal to the Minister, subject to a further appeal to the High Court.

22. The Council shall keep a register of utilities and service providers issued with licences under this Part and shall, at least once every year, publish a list of all utilities and service providers holding a licence under this Act.

Register of utilities and service providers

PART V

POWERS OF UTILITIES OR SERVICE PROVIDERS

23. (1) The President may, by order, compulsorily acquire so much land, including State Land, as the President may consider necessary for any purpose associated with the provision of water supply or sanitation services by a utility or service provider and any acquisition in terms of this section shall be completed in accordance with such directions as the President may give in that or any other order.

Acquisition of land for water supply or sanitation purposes

(2) Before making an order under subsection (1), the President shall be satisfied that-

(a) the utility or service provider has taken all reasonable steps to acquire the land intended to be used, on reasonable terms, by agreement with the owner of the land and has been unable to do so; and

(b) the acquisition of such land is necessary for the purposes of the utility or service provider.

(3) The President may, under such conditions as the President may consider necessary including conditions requiring the

**Water Supply and
Sanitation**

- Cap. 184 reimbursement of compensation paid under subsection (4), permit the use by the utility or service provider of any land which the President has acquired under subsection (1);
Provided that-
- (a) the land shall not be used by the utility or service provider for any purpose other than the purpose for which it was acquired under subsection (1); and
 - (b) the land or such part of it as the President may determine shall revert to the use and absolute control of the President, as vested under the Lands Act, if it or any part of it is not used for any purpose for which it was acquired under subsection (1).
- Cap. 189
- (4) Adequate compensation, in accordance with the provisions of the Lands Acquisition Act, shall, from moneys appropriated for the purpose by Parliament, be paid to any person who suffers loss or damage through the exercise of the powers conferred by this section.
 - (5) If the owner of, or any person lawfully occupying any land to be acquired under this section is temporarily absent from Zambia at the time when an order is made, any person authorised by the President, so to act, may enter upon, take possession of, and use, such land, leaving all questions as to the compensation to be paid for such land to be settled thereafter in accordance with subsection (4).
 - (6) Where any rights over land have been acquired by the utility or service provider, whether by agreement or under this Part, then, notwithstanding the fact that those rights may not have been registered against the title to the land to which they relate in accordance with the written law relating to registration of title, those rights shall be binding on the owner of such land and on the successor in title or representative in interest.
- Powers to execute works and consultation by developer
- 24.** (1) Subject to any other law relating to planning permission or land use management, a utility or service provider may construct any facility within or outside its area.
- (2) A local authority or a private or public development agency shall consult a utility or service provider before any change in land use or zoning is approved by the responsible authority, and before any consent is given for any new development.
 - (3) A utility or service provider and a local authority in its service area shall establish procedures for adequate consultation to be carried out for developmental planning or for implementing physical works.

**Water Supply and
Sanitation**

25. (1) Where a utility or service provider has acquired the right to place or replace facilities across, under, or along any street or has so placed facilities in accordance with this Act or any other law relating to water supply or sanitation services, that utility or service provider may break up any street in respect of which such rights have been acquired and may, from time to time, repair, alter, or remove any such facility.

Powers to cut into streets

- (2) Before exercising any power conferred by this section, the utility or service provider shall give to the local authority or other authority concerned such notice, in writing, as the utility or service provider may require to complete any works to be undertaken, not exceeding twenty-eight days, of its intention to do so, except in cases of emergency, when the utility or service provider shall as soon as possible after the emergency has arisen give notice thereof to that authority and shall likewise give notice to the owner of telephone cables, or other installations likely to be affected by the exercise of such power.
- (3) Except in cases of emergency, the powers conferred by this section shall be exercised under the supervision of the local or other authority concerned or, if any difference arises respecting the specification, plan or route, as may be approved by the Minister.

Provided that, if the authority concerned fails to exercise the powers of supervision, herein conferred, after such notice has been given, the utility or service provider may exercise those powers without such supervision.

- (4) Whenever the utility or service provider carries out any work authorised under this section, the utility or service provider shall comply with the by-laws and regulations of the local or other authority concerned, and shall complete that work with reasonable despatch, and shall reinstate and make good the street opened or broken up and remove the refuse occasioned thereby, and shall, while the street is opened or broken up or obstructed, cause the works to be at all times fenced and guarded and to be lit during the night.
- (5) If the utility or service provider fails to carry out any duty imposed by subsection (4), the local authority or other authority concerned may cause any work, delayed or omitted, to be executed at the expense of the utility or service provider.
- (6) The utility or service provider shall pay the local authority or other authority concerned any costs reasonably and necessarily incurred by it in exercising any necessary supervision under this section, or in reinstating and making good any street opened or broken up by the utility or service provider.

***Water Supply and
Sanitation***

- Powers to reduce levels of service
26. (1) In the event of any shortfall in supply of water due to climatic conditions or natural or other disaster outside the control of the utility or service provider or during maintenance of facilities, a utility or service provider may-
- (a) ration supplies;
 - (b) restrict hours of supply;
 - (c) terminate supplies to non-essential users and non-essential uses;
 - (d) levy additional consumption charges for non-essential water consumption to reduce water use; or
 - (e) otherwise modify their normal operating procedures.
- (2) Any modification of normal operating procedures by a utility or service provider under paragraph (e) of subsection (1) shall be-
- a) designed as far as possible to safeguard public health and to maintain commercial and industrial activities, in that order of priority; and
 - b) notified to the Council.
- (3) A utility or service provider shall, before doing anything specified in subsection (1), give adequate notice to the users and any user so notified shall not be entitled to compensation for inconvenience or loss of profit.
- Powers to establish and maintain easements
27. (1) A utility or service provider may, subject to the other provisions of this section, establish easements in order to ensure that any new development immediately adjacent to its facilities, both above and below ground, is such that there is no threat to those facilities.
- (2) Before establishing any easement under subsection (1), the utility or service provider shall serve on the owner of the land and any person lawfully occupying it a notice of intention to establish the easement and the description of the path and the nature of the easement:
- Provided that if the owner or such person is not resident, or has no representative, within Zambia, service of such notice shall not be necessary.
- (3) If, within twenty-eight days after the service of a notice under subsection (2), the person to whom such notice has been given objects, or attaches to the consent any terms or conditions to which .

**Water Supply and
Sanitation**

the utility or service provider objects, the utility or service provider may refer the matter to the Minister for a decision, and the Minister may make such order as may be necessary in the particular circumstance:

Provided that any question as to an amount of compensation to be paid shall, for all damage sustained or likely to be sustained by such owner by reason or consequence of the exercise of such powers, be decided with any necessary modifications in accordance with section *twenty- three*.

- 28.** (1) When, in accordance with the provisions of this Part, the utility or service provider has been permitted to use any land or has placed any facility in position, the utility or service provider shall be entitled to reasonable access to the land or facility for the purposes of carrying on any operation, authorised by the licence, on such land or for the maintenance, removal, repair or replacement of such facility. Rights of entry
- (2) When the utility or service provider has acquired any land or rights over land under the provisions of any other law relating to water supply or sanitation service, the provisions of subsection(1) shall apply, with the necessary modifications, to access to such land, and to any person entitled to exercise them, subject to the conditions applicable to them under the provisions of any law at the time when they were acquired.
- 29.** In the exercise of the powers in relation to the execution of works given under this Act, a utility or service provider shall cause as little detriment and inconvenience and do as little damage as possible, and shall make full compensation to all local and other authorities and other persons who have sustained damage, for all damage sustained by them by reason or consequence of the exercise of such powers, and, in default of agreement between the parties, the amount and application of such compensation shall be determined by arbitration in accordance with the provisions of the Arbitration Act and for that purpose the parties shall be deemed to be parties to a submission in which the reference is to two arbitrators. Compensation for damage in exercise of powers

Cap. 40
- 30.** (1) A utility or service provider shall, within its service area construct and maintain facilities to the boundary of the consumer's property. Construction and maintenance of water and sewerage facilities
- (2) Where facilities have been constructed, owners of the property to which facilities have been constructed shall, within a period specified by the utility or service provider, connect water supply or sewerage pipes to such facilities.

**Water Supply and
Sanitation**

(3) Any facilities which are no longer in use after the connections referred to in subsection (2) shall be closed off and left in a safe condition by the utility or service provider.

Prohibition of
certain activities
relating to facilities

31. (1) No person shall-

- (a) without authority, enter upon property vested in the utility or service provider, or interfere in any way with its facilities,
- (b) make any unauthorised connection to any water transmission and distribution pipe;
- (c) without authority, interfere with any house connection or water meter; or
- (d) make any unauthorised connection to any sanitary sewer or without authority, discharge liquid or solid matter into any sewer system.

(2) Any person who contravenes this section shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding five thousand penalty units, or to imprisonment for a term not exceeding one year, or to both.

(3) Any disconnection of any unauthorised connection to any facility shall be at the cost of the owner, and any associated damage or loss shall not be compensated.

Rights over private
facilities

32. (1) Where a water supply or sanitation appliance or installation on private property malfunctions and interferes or its likely to interfere with the proper functioning of any system of a utility or service provider, and may be a threat to public safety, health or service delivery, the utility or service provider shall notify the owner of the property to rectify the situation;

(2) If the owner of the property referred to in subsection (1) does not comply with the notice within the time specified by the utility or service provider, a representative or contractor of that utility or service provider may enter onto the private property and remedy the problem at the owner's expense.

(3) Any person authorised in writing by a utility or service provider may, at any reasonable time and for purposes connected with the functions of a utility or service provider, enter any premises on which there are facilities, to-

- (a) inspect the facilities in order to ascertain whether there is any waste leakage, obstruction or damage to any facility or meter therein;

**Water Supply and
Sanitation**

- (b) regulate, repair or alter any facility or meter;
- (c) ascertain the amount of water used; or
- (d) disconnect the supply of water to any premises or to diminish, withhold, suspend, stop, turn off or divert the supply of water to any premises.

PART VI

INSPECTIONS

- | | |
|--|---|
| <p>33. (1) The Council shall appoint inspectors to monitor, inspect and enforce the provisions of this Act.</p> <p>(2) The Secretary shall issue an identity card to each inspector.</p> | <p>Appointment of
Inspectors</p> |
| <p>34. (1) An inspector shall have power, on production of an identity card issued to the inspector under subsection (2) of section <i>thirty-three</i>, to inspect the premises and records of utility or service provider licensed under this Act in order to ensure that the provisions of this Act are being complied with.</p> <p>(2) An inspector may order any person in charge to produce for inspection or for purposes of obtaining copies or extracts, any books, documents or records relevant to the administration of this Act.</p> <p>(3) An inspector shall ensure that adequate arrangements for the provision of water supply or sanitation services are being provided in accordance with this Act.</p> <p>(4) Any person who obstructs an inspector, appointed under subsection (1) of section <i>thirty-three</i>, in the exercise of that inspector's duty under this Part shall be guilty of an offence and shall be liable upon conviction, to a fine not exceeding five thousand penalty units or to imprisonment for a term not exceeding one year, or to both.</p> | <p>Powers of
inspectors</p> |
| <p>35. Each inspector shall furnish the Council with such reports and other information relating to an inspection as the Council may direct.</p> | <p>Duty of inspector to
report to Council</p> |

PART VII

MISCELLANEOUS

- | | |
|--|----------------|
| <p>36. A person aggrieved with any decision of the Council, or the Minister, as the case may be, where such appeal is not specifically provided under any other provision, may appeal to the High Court within forty-five days after the date of receipt of the decision.</p> | <p>Appeals</p> |
|--|----------------|

**Water Supply and
Sanitation**

- Monetary penalties **37.** (1) Subject to the approval of the Council, a utility or service provider may impose monetary penalties for late payment or non-payment of any tariffs, charges or fees.
- (2) Where one or more users of a common water service connection are in default, the utility shall separate the common connections, and add the cost of separating such connections to the defaulting party or where two or more defaulting parties are involved, in proportion to the amounts due to the utility or service provider.
- General penalty **38.** Any person who contravenes any provision for which a penalty has not been provided for under this Act, shall be liable, upon conviction, to a fine not exceeding six thousand penalty units or to imprisonment for a period of three years, or to both.
- Regulations and By-laws **39.** (1) The Minister may, by statutory instrument, make regulations for the better carrying out of the provisions of this Act.
- (2) A local authority may make by-laws to ensure that the provision of water supply or sanitation services in its area are in accordance with this Act and to ensure enforcement thereof.
- Transitional Provisions **40.** (1) Any local authority, company or business enterprise existing at the commencement of this Act which is involved in the provision of water supply or sanitation services shall apply for a licence under this Act within six months after the commencement of this Act.
- (2) The Minister shall, by statutory instrument, provide for the transfer of assets relating to, and liabilities incurred as a result of, the provision of water supply and sanitation services, of a local authority to a utility formed in accordance with this Act.

FIRST SCHEDULE

(Section 3)

PART 1

THE NATIONAL WATER SUPPLY AND SANITATION COUNCIL

- Seal of Council **1.** (1) The seal of Council shall be such device as may be determined by the Council and shall be kept by the Secretary.
- (2) The affixing of the seal shall be authenticated by the Chairperson or the Vice Chairperson and the Secretary or any other person authorised in that behalf by a resolution of the Council.

**Water Supply and
Sanitation**

- (3) Any document purporting to be a document under the seal of Council or issued on behalf of Council shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof unless the contrary is proved.

2. (1) The Council shall consist of the following members appointed by the Minister-

Composition of
Council

- (a) a representative of the Environmental Council of Zambia;
- (b) a representative of the Zambia Chambers of Commerce and Industry;
- (c) a representative of the Association of Consulting Engineers of Zambia;
- (d) a representative of the Consumer Protective Association of Zambia;
- (e) a representative of the Local Government Association of Zambia;
- (f) a representative of the Economics Association of Zambia;
- (g) a representative from the Ministry responsible for water resources;
- (h) a representative from the Ministry responsible for legal affairs;
- (i) a representative from the Ministry responsible for local government administration and water supply and sanitation services;
- (j) a representative from the Ministry responsible for community development;
- (k) a representative from the Ministry responsible for health;
- (l) a representative from the Ministry responsible for national development planning;
- (m) a representative of the Water Board;
- (n) a representative of the Zambia Competition Commission; and
- (o) two members of the public who in the opinion of the Minister are of good standing.

(2) The Minister may reject a nomination by a Ministry or organisation made under subsection (1) and may direct that Ministry or organisation to nominate another representative in that member's stead.

(3) The Chairperson and Vice-Chairperson shall be elected by the Council from amongst its members.

**Water Supply and
Sanitation**

- (4) Where any member, is unable to attend any meeting, that member's Ministry or organisation, as the case may be, may in writing nominate another person to attend in that member's stead and such person shall be deemed to be a member for the purposes of the meeting
- Tenure of office and vacancies
3. (1) A member shall hold office for a period of three years and may be re-appointed for a further period of three years.
- (2) Any member, may resign upon giving one month's notice to the Ministry or organisation which that member represents and to the Council and may be removed by the Minister at any time.
- (3) The office of a member shall become vacant on-
- (a) the death of the member;
 - (b) being declared to be of unsound mind;
 - (c) being declared a bankrupt;
 - (d) being convicted of an offence involving dishonesty;
 - (e) being sentenced to imprisonment for a period exceeding six months;
 - (f) resignation or being removed under subparagraph (2);
 - (g) the member ceasing to hold the office by virtue of which the member was appointed to the Council; and
 - (h) being absent without reasonable cause from three consecutive meetings of the Council of which the member has had notice
- (4) If the office of a member falls vacant, a new member may be appointed, but that member shall hold office only for the unexpired part of the term.
- Proceedings of Council
4. (1) Subject to the other provisions of this Act, the Council may regulate its own procedure.
- (2) The Council shall meet for the transaction of its business at least once in every three months at such places and times as the Chairperson may determine, but the first meeting of the Council shall be called by the Minister not later than one month after the commencement of this Act.
- (3) Upon giving notice of not less than fourteen days, a meeting of the Council may be called by the Chairperson, and shall be called if not less than seven members so request in writing:
- Provided that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon giving a shorter notice.

**Water Supply and
Sanitation**

- (4) A quorum at a meeting of the Council shall be seven members.
- (5) There shall preside at any meeting of the Council -
- (a) the Chairperson
 - (b) in the absence of the Chairperson, the Vice-Chairperson; or
 - (c) in the absence of both the Chairperson and the Vice-Chairperson, such member as the members present shall elect for the purpose of that meeting.
- (6) A decision of the Council on any question shall be by a majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to the deliberative vote.
- (7) The Council may invite any person whose presence is in its opinion, desirable to attend and participate in the deliberations of a meeting but that person shall have no vote.
- (8) The validity of any proceedings, act or decision of the Council shall not be affected by any vacancy in its membership or by any defect in the appointment of any member or because any person not entitled to do so took part in the proceedings.
- (9) The Council shall cause to be kept minutes of the proceedings of every meeting of the Council and of every meeting of any committee constituted by the Council.
5. (1) The Council may for the purpose of performing its functions under this Act constitute any committee, the Chairperson of which shall be a member of the Council, and may delegate to that committee any of its functions. Committees of Council
- (2) The Council may appoint as members of a committee established under subsection (1), persons who are or are not members of the Council and such persons shall hold office for such period as Council may determine:
- Provided that at least half of the members of a committee shall be members of Council.
- (3) Subject to any specific or general directions of the Council any committee established under subsection (1), may regulate its own procedure.
6. (1) If any person is present at a meeting of the Council or a committee at which any matter, in which that person or any member of their immediate family is directly or indirectly interested in a private capacity, is the subject of consideration, that person shall, as soon as is practicable after commencement of the meeting, disclose that interest and shall not, unless the Council or the committee otherwise directs, take part in any consideration or discussion of, or vote on any question relating to that matter. Disclosure of interest

**Water Supply and
Sanitation**

- (2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.
- (3) A person who contravenes subsection (1) shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding one thousand penalty units.
- Prohibition of publication or disclosure of information to unauthorised persons
7. (1) A person shall not, without the consent in writing given by or on behalf of the Council, publish or disclose to any person, otherwise than in the course of that person's duties, the contents of any document, communication or information whatsoever which relates to, and which has come to that person's knowledge in the course of, that person's duties under this Act.
- (2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding fifty thousand penalty units, or to imprisonment for a term not exceeding five years, or to both.
- (3) If any person having information which to that person's knowledge has been published or disclosed in contravention of subsection (1), unlawfully publishes or communicates any such information to any other person, that person shall be liable, upon conviction, to a fine not exceeding fifty thousand penalty units, or to imprisonment for a term not exceeding five years, or to both.
- Remuneration and allowances
8. There shall be paid to a member of the Council or a committee such remuneration or allowances as the Council may determine.

PART II

FUNDS OF COUNCIL

- Funds of Council
9. (1) The funds of the Council shall consist of such monies as may-
- (a) be appropriated by Parliament for the purposes of the Council;
 - (b) be paid to the Council by way of fees, grants or donations; and
 - (c) otherwise vest in or accrue to the Council.
- (2) The Council may-
- (a) accept monies by way of grants or donations from any source in Zambia and, subject to the approval of the Minister, from any source outside Zambia;

**Water Supply and
Sanitation**

- (b) with the approval of the Minister, raise by way of loans or otherwise, such monies as it may, require for the discharge of its functions;
 - (c) charge and collect fees in respect of consultancy and other services provided by the Council; and
 - (d) charge and collect fees in respect of programmes and seminars conducted by the Council.
- (3) There shall be paid from the funds of the Council-
- (a) the salaries and allowances, and loans to the staff of the Council;
 - (b) such reasonable travelling and other allowances for members or members of any committee when engaged on the business of the Council at such rates as the Council may determine; and
 - (c) any other expenses incurred by the Council in the performance of its functions.
- 10.** (1) The Council may invest in such manner as it considers necessary any of its funds which it does not immediately require for the performance of its functions. Investment of funds
- (2) The Council may establish a Devolution Trust Fund, from moneys appropriated by Parliament, for the purpose of assisting utilities established by local authorities under this Act.
- 11.** The financial year of the Council shall be a period of twelve months ending on 31st December in each year. Financial year
- 12.** The Council shall cause to be kept proper books of account and other records relating to its accounts. Accounts
- 13.** (1) As soon as is practicable, but not later than three months after the expiry of each financial year, the Council shall submit to the Minister a report concerning its activities during such financial year. Annual report
- (2) The report referred to in subsection (1) shall include information on the financial affairs of the Council and there shall be appended to the report-
- (a) an audited balance sheet;
 - (b) an audited statement of income and expenditure; and

**Water Supply and
Sanitation**

- (c) such other information regarding activities undertaken during the year, as the Minister may require.
 - (3) The report referred to in subsection (2) shall specifically record the extent to which the objectives defined in the annual workplan and budget have been attained.
 - (4) The Minister shall, not later than fourteen days after the sitting of the National Assembly next after receipt of the report referred to in subsection (1), lay it before the National Assembly.
-