

THE UNITED REPUBLIC OF TANZANIA

ACT SUPPLEMENT

No. 4

16th April, 1999

to the Gazette of the United Republic of Tanzania, No. 16 Vol. 80, dated 16th April, 1999
Printed by the Government Printer, Dar es Salaam, by Order of Government

**THE WATER LAWS (MISCELLANEOUS
AMENDMENTS)**

ACT, 1999

ARRANGEMENT OF SECTIONS

Section Title

PART I

PRELIMINARY PROVISIONS

1. Short title.

PART II

**AMENDMENT OF THE DAR ES SALAAM WATER
AND SEWERAGE AUTHORITY ACT, 1981**

2. Construction.
3. Amendment of section 3.
4. Addition of sections 5A, 5B, 5C, 5D, 5E, 5F, 5G, 5H, 5I, 5J, 5K and 5L.
5. Amendment of section 6.
6. Amendment of section 19.
7. Repeal and replacement of section 29.

8. Amendment of section 33.
9. Repeal and replacement of section 34.
10. Vesting of assets and liabilities of former NUWA.
11. Re-naming of the Schedules.
12. Amendment of the Second Schedule.

PART III

AMENDMENT OF THE WATER UTILISATION (CONTROL AND REGULATION) ACT, 1974

13. Construction.
14. Amendment of section 18A
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 operator" or "operator" 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. The principal Act is amended by inserting immediately after section 5 the following sections:

<p>“Appointment of water operator and role of Public Granting Authority</p>	<p>5A-(1) DAWASA is hereby designated as the Public Granting Authority and may, by notice 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.</p>	<p>Addition of sections 5A, 5B, 5C, 5D, 5E, 5F, 5G, 5H, 5I, 5J and 5K</p>
---	--	---

(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.-(1) 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.-(1) 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.-(1) 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 Authority

- (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;
- (j) 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-(1) Where the Operator
fails to discharge his functions
under this Act, the Water Regu-
lator may, by notice in writing
addressed to the Operator, call
upon him to show cause why
his contract should not be ter-
minated 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, cancelled, 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 of
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-(1) The Water Regulator shall employ officers 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.

5I-(1) 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.

Financial
Provisions

(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-(1) 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 the National Board of Accountants and Auditors Act, 1972.

Act No.22
of 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-(1) 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 subsection: Amendment of
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 33.-(1) The operator shall charge tariffs, fees or other charges for water supplied, sewerage or other services rendered or facilities availed to customers in accordance

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 in the Second Schedule by deleting clause(e) of paragraph 1(1) and substituting for it the following-

"(e) four other members two of whom shall be the Mayor and the other 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:

"(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

1.-(1) 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 affairs 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.-(1) 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.-(1) Three members shall constitute a quorum at any meeting of the Water Regulator. Quorum and 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.

G. F. MLAWA,
Clerk of the National Assembly

Rectification of Printing Errors (The Water Laws (Miscellaneous Amendments))

GOVERNMENT NOTICE No. 145 published on 18/6/99

**T THE INTERPRETATION OF LAWS AND GENERAL CLAUSES
ACT, 1972**

ORDER

Made under section 21

THE RECTIFICATION OF PRINTING ERRORS
(THE WATER LAWS (MISCELLANEOUS AMENDMENTS)
ACT, 1999) ORDER, 1999

1. This Order may be cited as the Rectification of Printing Errors (The Water Laws (Miscellaneous Amendments) Act, 1999) Order, 1999.

2. The Printing errors occurring in the Water Laws (Miscellaneous Amendments) Act, 1999 are hereby rectified in the manner shown hereunder:

(a) in section 4 which relates to addition of sections 5A, 5B, 5C, 5D, 5E, 5F, 5G, 5H, 5I, 5J, 5K and 5L

(i) by adding in section 5E(i)(h) after the word "studies" the phrase "relating to the economy and efficiency of water operators";

(ii) by adding immediately after paragraph (h) the following phrase before the word "necessary":

"(i) to make valuation of property of water operators as it considers";

(ii) by adding in paragraph (j) after the word "performance" the phrase "of its functions";

(iii) by adding after paragraph (j) the following paragraphs (k) and (l):

Rectification of Printing Errors (The Water Laws (Miscellaneous Amendments))

G.N. No. 145 (contd.)

"(k) to advise any person or authority in respect of any water operations;
(l) to maintain a register of water operators";

(b) by adding immediately after section 8 the following section:

"Repeal and replacement of section 34

9. Section 34 of the principal Act is repealed and replaced by the following-

"Funds of the Authority

34. The funds and resources of the Authority shall consist of-

(a) subject to a formula agreed between the Authority and the operator as sanctioned by the Water Regulator, the portion of water and sewerage tariffs and other charges raised by the operator from its operations under this Act;

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

(c) in section 14 with reference to subsection (2) of section 18A of the principal Act, by deleting the whole of that section and substituting for it the following:

"(2) The Water Regulator may, upon recommendations made by the Central Water Board in that behalf, make provisions for the regulation of the discharge of effluents into underground strata";

(d) by adding immediately after section 14 the following:

15. The powers and functions relating to the discharge of effluents which are stipulated under section 5E(1) of the Dar es Salaam Water and Sewerage Authority Act, 1981 which are vested in or performed by the Principal Water Officer, the Central Water Board or the Basin Boards under this Act, shall vest solely in the Water Regulator established by the section 5C""

Dar es Salaam,
11th June, 1999

S. K. B. LUSHAGARA,
Chief Parliamentary Draftsman

Price Shs. 140/=