

**WATER SERVICES BYLAWS OF THE UTHUKELA DISTRICT MUNICIPALITY**

**AS WATER SERVICES AUTHORITY  
(ADOPTED AS REQUIRED BY SECTION 21 OF THE WATER SERVICES ACT 108 OF  
1997)**

**CONTENTS**

**CHAPTER 1  
DEFINITIONS AND INTERPRETATION**

- 1 Definitions and Interpretation

**CHAPTER 2  
PART 1 — APPLICATION OF BY-LAWS, EXEMPTION FROM APPLICABILITY AND  
LEVELS OF SERVICE**

- 2 Application of By-laws, Exemption from Applicability and Levels of Service

**PART 2 — TARIFFS, RATES AND CHARGES**

- 3 Prescribed tariffs and charges for water services  
4 Determination of Tariffs  
5 Water and Project Contribution

**PART 3 — APPLICATION FOR WATER SERVICES**

- 6 Application for water services  
7 Special agreements for water services

**PART 3 — PAYMENT**

- 8 Payment of deposit  
9 Payment for water services provided

**PART 4 — ACCOUNTS**

- 10 Accounts  
11 Queries in respect of account  
12 Appeals against finding of authority in respect of queries  
13 Arrears  
14 Agreement for the payment of arrears in instalments

## **PART 5 — TERMINATION, LIMITATION AND DISCONTINUATION OF WATER SERVICES**

- 15 Termination of agreement for the provision of water services
- 16 Limitation and or discontinuation of water services provided
- 17 Interruption of Supply at Consumer's Request
- 18 Restoration of water services

## **PART 6 — GENERAL PROVISIONS**

- 19 Standard Conditions by Authorised Providers
- 20 Responsibility for compliance with these by-laws
- 21 Unauthorised use of water services
- 22 Purpose of water services
- 23 Interference with water supply system or any sanitation services
- 24 Obstruction of Access to Water Supply System or any Sanitation Services
- 25 Notice and Documents
- 26 Power to serve, and compliance with notices
- 27 Entry and Inspection
- 28 False Statements or Information
- 29 Availability of By-laws
- 30 Trespassing on Water Supply System
- 31 Damage to Water Supply System
- 32 Pollution of Water Services Authority's Water Supply
- 33 Liabilities and Compensation
- 34 Offences
- 35 Arbitration

### **CHAPTER 3**

#### **WATER SUPPLY SERVICES**

##### **PART I — CONNECTION TO WATER SUPPLY SYSTEM**

- 36 Provision of connection pipe
- 37 Location of connection pipe
- 38 of single water connection for supply to several consumers on same premises
- 39 Interconnection between premises or water installations
- 40 Disconnection of water installation from connection pipe

##### **PART 2 — COMMUNAL WATER SERVICES NETWORKS**

- 41 Provision Of water services networks for water supply to several consumers

##### **PART 3 — TEMPORARY SUPPLY**

- 42 Water supplied from a hydrant

##### **PART 4 — STANDARDS AND GENERAL CONDITIONS OF SUPPLY**

- 43 Quantity, quality and pressure
- 44 General conditions of supply

## **PART 5 — MEASUREMENT OF WATER SUPPLY SERVICES**

- 45 Measuring of quantity of water supplied
- 46 Quantity of water supplied to consumer
- 47 Estimate of quantity
- 48 Defective measurement
- 49 Special measurement
- 50 No reduction of amount payable for water wasted
- 51 Adjustment of quantity of water supplied through defective measuring device

## **PART 6 — INSTALLATION WORK**

- 52 Approval of installation work
- 53 Provision and maintenance of water installations
- 54 Use of pipes and water fittings to be authorised
- 55 Labelling of terminal water fittings and appliances

## **PART 7 — WATER POLLUTION, RESTRICTION AND WASTEFUL USE OF WATER**

- 56 Owner to prevent pollution of water
- 57 Water restrictions
- 58 Waste of water unlawful

## **PART 8 — WATER AUDIT**

- 59 Water Audit

## **PART 9 — GENERAL PROVISIONS**

- 60 Notification of boreholes
- 61 Sampling of water
- 62 Supply of non-potable water by water services authority or its authorised provider
- 63 Testing of pressure in water supply systems
- 64 Pipes in streets or public places

### **CHAPTER 4**

#### **SANITATION SERVICES**

##### **PART 1 — STANDARDS AND GENERAL PROVISIONS**

- 65 Standards for sanitation services
- 66 Objectionable discharge to sewage disposal system

##### **PART 2 — ON-SITE SANITATION SERVICES AND ASSOCIATED SERVICES**

- 67 Application for infrastructure
- 68 Services associated with on-site sanitation services
- 69 Charges in respect of services associated with on-site sanitation services

##### **PART 3 — SEWAGE DISPOSAL**

- 70 Provision of a connecting sewer
- 71 Location of connecting sewer
- 72 Provision of one connecting sewer for several consumers on same premises
- 73 Interconnection between premises

- 74 Disconnection of draining installation from connecting sewer

#### **PART 4 — SEWAGE DELIVERED BY ROAD HAULAGE**

- 75 Acceptance of sewage delivered by road haulage  
76 Written permission for delivery of sewage by road haulage  
77 Conditions for delivery of sewage by road haulage  
78 Withdrawal of permission for delivery of sewage by road haulage

#### **PART 5 — DISPOSAL OF INDUSTRIAL EFFLUENT AND TRADE PREMISES**

- 79 Application for disposal of industrial effluent  
80 Unauthorised discharge of industrial effluent  
81 Quality standards for disposal of industrial effluent  
82 Conditions for disposal of industrial effluent  
83 Withdrawal of written permission for disposal of industrial effluent  
84 Notification of non-compliance with standards of industrial effluent

#### **PART 6 — MEASUREMENT OF QUANTITY OF EFFLUENT DISCHARGED TO SEWAGE DISPOSAL SYSTEM**

- 85 Measurement of quantity of standard domestic effluent discharged  
86 Measurement of quantity of industrial effluent discharged  
87 Reduction in the quantity determined in terms of sections 85 and 86(1)(a)

#### **PART 7 — DRAINAGE INSTALLATIONS**

- 88 Construction or installation of drainage installations  
89 Drains in Streets or Public Places  
90 Construction by water services authority or its authorised provider  
91 Maintenance of drainage installation  
92 Installation of pre-treatment facility  
93 Protection from ingress of floodwaters

#### **PART 8 — PROTECTION OF INFRASTRUCTURE**

- 94 Power of Entry and Inspection  
95 Trespassing on the Sewage Disposal System  
96 Interference with the Sewage Disposal System  
97 Damage to Sewage Disposal System  
98 Consequential Maintenance of Sewers  
99 Obstruction of Access to Sewage Disposal System  
100 Work by Private Persons

### **CHAPTER 5**

#### **APPROVALS OF WATER SERVICE PROVIDERS, SUPPLIERS OF WATER FOR INDUSTRIAL USE AND REGISTRATION OF WATER SERVICES INTERMEDIARIES**

##### **PART 1 — WATER SERVICES PROVIDER - APPROVAL**

- 101 Request for Applications for Approval  
102 Application for Approval  
103 Additional Information to make Decision  
104 Procedure on Approval

**PART 2 — WATER SCHEMES MANAGED AND ADMINISTERED BY AN APPROVED  
WATER SERVICES PROVIDER**

- 105 Water Scheme Categories
- 106 Water Services Provider Categories
- 107 Monthly Report
- 108 Disputes

**PART 3 — WATER SUPPLY FOR INDUSTRIAL USE AND ACCEPTANCE OF  
INDUSTRIAL EFFLUENT**

- 109 Industrial Use - Application
- 110 Procedure on Approval

**PART 4 — WATER SERVICES INTERMEDIARY - REGISTRATION**

- 111 Application for Registration
- 112 Additional Information to make Decision
- 113 Approval of Application for Registration as Water Services Intermediary
- 114 Approval
- 115 Monthly Report by Water Services Intermediary

**SCHEDULES — Quality Standards**

- SCHEDULE A
- SCHEDULE B

**CHAPTER 1  
DEFINITIONS AND INTERPRETATION**

**Definitions and Interpretation**

1. (1) In these by-laws, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the Act, shall have the meaning so assigned, and
  - (i) Act means the Water Services Act 108 of 1997 and shall include any regulations made under the Act;
  - (ii) additional project contribution means an additional contribution payable on the alteration, refurbishment, extension or rebuilding of a project as provided for in section 5(2) (c);
  - (iii) additional quota means, in relation to—
    - (a) a supply of water; or
    - (b) the acceptance of sewage,  
  
the difference between any new quota for such supply or acceptance and the quota in respect of such supply or acceptance in force immediately prior to the coming into operation of the said new quota;

- (iv) additional water services contribution means additional water services contribution contemplated in section 5(1)(b);
- (v) area of jurisdiction means, in the case of:
  - (a) an authority, including where such authority acts as a water services provider as contemplated in section 19(1)(a) of the Act, the area of jurisdiction of such authority as a district municipality, but excluding the area of such district municipality for which a local municipality has been appointed as an authority under the provisions of section 84(3)(a) of the Local Government: Municipal Structures Act 117 of 1998;
  - (b) an authorised provider that is constituted as a local municipality, the area of jurisdiction of such local municipality, or such lesser area thereof as may be agreed between the authority and such local municipality concerned in respect of any approval or registration of such authorised provider; or
  - (c) an authorised provider other than a district or local municipality, the area agreed between the authority and such authorised provider concerned in respect of any approval or registration of such authorised agent
- (vi) authorised provider means industrial water provider, a water services intermediary or a water services provider, as the case may be;
- (vii) authority means the \*\*\* Municipality (District Municipality \*\*), a District Municipality established under the Local Government: Municipal Structures Act 117 of 1998, in its capacity as the water services authority as contemplated in the Water Services Act 108 of 1998 (as amended);
- (viii) basic water services charge means the basic charge for water services provided in accordance with any quota determined in terms of sections (3) and (4) of these by-laws and payable in respect of any project where a quota or additional quota has been allocated in terms of section 5(2)(a) or (c) of these by-laws, but shall exclude any water services surcharge;
- (ix) borehole means a hole sunk into the earth for the purpose of locating, abstracting or using subterranean water and includes a spring;
- (x) Building Regulations means the National Building Regulations made in terms of the National Building Regulations and Building Standards Act, (Act No. 103 of 1977);
- (xi) calendar days shall mean every day, including Saturdays, Sundays and public holidays;
- (xii) certified means certified as true and correct by a Commissioner of Oaths, Notary Public or public servant charged with the issue of the document in question and “certificate” shall have the same meaning;
- (xiii) communal water services means a consumer connection through which water services are supplied to more than one person;

- (xiv) connecting point means the point at which a drainage installation joins the connecting sewer;
- (xv) connecting sewer means a pipe owned by the authority or the authorised provider,, and installed by it for the purpose of conveying sewage from a drainage installation on a premises to a sewer beyond the boundary of those premises or within a servitude area or within an area covered by a wayleave or by agreement;
- (xvi) connection pipe means a pipe, the ownership of which is vested in the authority or the authorised provider,, and installed by it for the purpose of conveying water from a main to a water installation, and includes a “communication pipe” referred to in SABS O252Part I;
- (xvii) consumer means the person with whom the authority or authorised provider has concluded an agreement as contemplated in section 6 or 7, provided that:
- (a) in the event of such person having absconded, and, despite reasonable diligent search cannot be located, or
- (b) in the event of such person having died or become incapacitated and no executor, representative or curator is appointed in respect of such person within a reasonable period of time after such death or incapacity,
- then it shall mean the occupier or person in charge of the premises to which water services are provided;
- (xviii) consumer unit means any structure situated on premises to which water services are provided in terms of these by-laws;
- (xvix) contribution shall mean both a water services contribution and an additional water services contribution, as the case may be;
- (xx) date of service means the date on which a quota or a new quota is negotiated or deemed to be negotiated, as the circumstances may require;
- (xxi) date of supply means the date on which a new quota is negotiated or deemed to have been negotiated, as the case maybe;
- (xxii) delivery system means a water installation, which delivers water to a consumer;
- (xxiii) developer means a person who undertakes a development and includes an owner of any consumer unit or premises;
- (xxiv) development means the development of any premises by the subdivision and/or the consolidation thereof and the preparation of such subdivisions or consolidated premises for disposal for any purpose, including, without limiting the generality of the foregoing, any land development contemplated in the Development Facilitation Act 67 of 1995 or private township contemplated in the KwaZulu-Natal Town Planning Ordinance

27 of 1949 or a less formal township contemplated in the Less Formal Townships Establishment Act 113 of 1991, and the improvement of premises consequent upon any change of land use approved or authorised under any law;

- (xxv) development authority means any authority authorised by any law to approve any development or the change of land use under any law;
- (xxvi) domestic waste water means waste water resulting from the supply of water to a household;
- (xxvii) drain means that portion of the drainage installation which conveys sewage within any premises;
- (xxviii) drainage watt includes any drain, sanitary fitting, waste or other pipe or any work connected with the discharge of liquid or solid matter into any drain or sewer or otherwise connected with the drainage of any premises;
- (xxix) duly qualified sampler means a person who takes samples for analysis from the sewage disposal and/or stormwater disposal systems and/or from public waters and who has been certified to do so by the authority;
- (xxx) dwelling unit shall without limiting the generality thereof, include a hotel, lodge or other consumer unit occupied or used for residential purposes and used for the temporary accommodation of people;
- (xxxi) emergency means any situation that poses a risk or potential risk to life, health, the environment or property;
- (xxxii) environmental cost means the full cost of all measures necessary to restore the environment to its condition prior to the damaging incident;
- (xxxiii) environmental option means the option that provides the most benefit or causes the least damage to the environment as a whole, at a cost acceptable to society, in the long term as well as in the short term;
- (xxxiv) extraordinary expense means any abnormal costs which will be incurred by the authority in the provision of water services to any proposed private township, any proposed project, or a project in respect of which an additional quota is being negotiated, arising from the elevation of such township or project or the situation of such township or project in relation to the authority's water supply or sewerage scheme;
- (xxxv) fire hydrant means a potable water installation that conveys water for fire fighting purposes only;
- (xxxvi) fixed charge means the fixed cost component which the authority requires to recover, before water is sold to consumers by the authority and comprises interest on and redemption of loans, as well as any statutory contributions to any prescribed statutory funds.
- (xxxvii) fixed quantity water delivery system means a water installation, which delivers a fixed quantity of water to a consumer in any single day;



- (xxxviii) flood level (1 in 50 years) means that level reached by floodwaters resulting from a storm of a frequency of 1 in 50 years;
- (xxxix) flood plain (1 in 50 years) means the area subject to inundation by floodwaters from a storm of a frequency of 1 in 50 years;
- (xxxx) household means a dwelling, structure, traditional homestead or property primarily occupied for residential purposes;
- (xxxxi) incapacitated for the purposes of the definition of ‘consumer’ shall mean a person who has been declared incapable of managing his or her affairs by a competent court;
- (xxxxii) industrial effluent means effluent emanating from industrial use of water, and includes for purposes of these by-laws, any effluent other than standard domestic effluent or stormwater, and includes industrial effluent discharged into a sewage treatment plant;
- (xxxxiii) industrial use of water includes the use of potable water, treated water or partially treated water;
- (xxxxiv) industrial water provider means a water services provider approved by the authority in terms of section 110 of these by-laws read with section 7 of the Act;
- (xxxxv) industries means any persons, organisations or institutions that—
- (a) use water for mining, manufacturing, generating electricity, land-based transport, construction or any related purpose; or
  - (b) disposes of effluent emanating from such use;
- (xxxxvi) installation work means work in respect of the construction of, or carried out, on a water installation;
- (xxxxvii) level of service means the level of service contemplated in section 2;
- (xxxxviii) main means a pipe, other than a connection pipe, vesting in the authority and used by it for the purpose of conveying water to a consumer;
- (xxxxix) measuring device means any method, procedure, process or device, apparatus, installation that enables the quantity of water services provided to be quantified and includes a method, procedure or process whereby quantity is estimated or assumed;
- (l) meter means a water meter as defined by the Regulations published in terms of the Trade Metrology Act, Act No.77 of 1973 or, in the case of water meters of size greater than 100mm, a device which measures the quantity of water passing through it;
- (li) occupier subject to section 34(5), means a person who occupies any premises or part thereof, without regard to the title under which he or she occupies, and, in the case of a consumer unit which is subdivided into two or more portions which are separately let, shall include the person

receiving the rent payable by the tenants of each such portion or portions, whether for his own account or as agent for any person entitled thereto or having an interest therein;

- (lii) officer means a person duly authorised to act for and on behalf of an authority or an authorised provider (as the case may be);
- (liii) owner subject to section 34(5), means—
  - (a) a person in whom is vested the legal title to the premises;
  - (b) in a case where the person in whom the legal title to premises is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
  - (c) in any case where the authority or authorised provider is unable to determine the identity of such person, a person who is entitled to the benefit of the use of such premises or a building or buildings thereon, including a person who receives the rent or profits of such premises or any part thereof from any tenant or occupier or who would receive such rent or profits if the premises or any part thereof were let, whether for his own account or as agent for any person entitled thereto or having an interest therein;
  - (d) in the case of premises for which a lease agreement of 30 years or longer has been entered into, the lessee thereunder;
  - (e) in relation to—
    - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act 95 of 1986, the developer or the body corporate in respect of the common property, or
    - (ii) a section as defined in such Act, the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed provider of such person;
- (liv) person subject to section 34(5), means any natural person, local government body or like authority, a company, close corporation, co-operative or communal property association incorporated under any law, a body of persons whether incorporated or not, a statutory body, public utility body, voluntary association or trust;
- (lv) person in charge for the purposes of the definition of ‘consumer’ shall include the registered owner of the premises to which water services are provided;
- (lvi) pollution means the introduction into the water supply system, or a water installation, of any substance which can make the water harmful to health or impairs its quality;

- (lvii) premises means any piece of land, the external surface boundaries of which are delineated on—
- (a) a general plan or diagram registered in terms of the Land Survey Act, Act No.9 of 1927, or in terms of the Deeds Registries Act, Act No.47 of 1937; or
  - (b) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, Act No.95 of 1986, the developer or the body corporate in respect of the common property, or
  - (c) an identified portion of land within a tribal area vested in the Ingonyama Trust;
- (lviii) prescribed means prescribed by regulations made in terms of section 13;
- (lix) prescribed tariff means a charge prescribed or approved by the authority under Chapter 2 Part 2 of these By-laws;
- (lx) project means—
- (a) one unit on one subdivision of land or any two or more contiguous subdivisions of land but does not include a special residential project other than any such project to which an alteration is being made to increase the number of units to more than one;
  - (b) a complex of more than one unit on one subdivision of land;
  - (c) a building which consists or will, on its completion, consist of more than one unit;
  - (d) a camp; or
  - (e) any business or commercial undertaking established or to be established on a piece of land without the erection of any structure;
- (lxi) project contribution means a contribution payable on the establishment of a project as provided for in section 5(2)(a);
- (lxii) public notice means notice in a newspaper in at least two of the official languages in general use within the Province of KwaZulu-Natal or area in question, and, where possible, the notice shall be published in a newspaper appearing predominantly in the language utilised in the publication of the notice;
- (lxiii) public water means any river, watercourse, bay, estuary, the sea and any other water which the public has a right to use or to which the public has the right of access;
- (lxiv) quota means—
- (a) in relation to a supply of water, the maximum quantity of water expressed in kilolitres per day which may on average in any account

period be drawn on any land or in any project in respect to which such quantity of water has been allocated; and

(b) in relation to the acceptance, treatment and disposal of sewage, the maximum quantity of sewage expressed in kilolitres per day which may on average in any account period be discharged from any land or from any project in respect to which such quantity of sewage has been allocated;

- (lxv) regulation means a regulation made by the authority under section 1(14);
- (lxvi) sanitation services for the purposes of these by-laws shall, in addition to the meaning given thereto in the Act, include industrial effluent;
- (lxvii) service pipe means a pipe which is part of a water installation provided and installed on any premises by the owner or occupier and which is connected or to be connected to a connection pipe to serve the water installation on the premises;
- (lxviii) sewage means waste water, industrial effluent, standard domestic effluent and other waste, including human excrete, either separately or in combination, but shall not include stormwater;
- (lxix) sewage disposal system means the structures, pipes, valves, pumps, meters or other appurtenances used in the conveyance through the sewer reticulation system and treatment at the sewage treatment plant under the control of the authority and which may be used by it in connection with the disposal of sewage and shall include the sea outfalls;
- (lxx) sewer means any pipe or conduit which is the property of or is vested in the authority and which may be used for the conveyance of sewage from the connecting sewer and shall not include a drain as defined;
- (lxxi) standard domestic effluent means domestic effluent with strength characteristics prescribed from time to time by the authority or the appropriate Minister under section 9 of the Act in respect of chemical oxygen demand and settleable solids as being appropriate to sewage discharges from domestic premises within the jurisdiction of the authority or the authorised provider, but shall not include industrial effluent;
- (lxxii) stormwater means water resulting from natural precipitation or accumulation and includes rainwater, subsoil water or spring water;
- (lxxiii) tariff means any tariff determined from time to time in terms of the provisions of these by-laws;
- (lxxiv) terminal water fitting means a water fitting at an outlet of a water installation which controls the discharge of water from a water installation;
- (lxxv) trade premises means premises upon which industrial effluent is produced;
- (lxvi) unit means:
  - (a) in relation to an accommodation unit or hotel, means a bedroom;

- (b) in relation to a camp, means a tent, caravan or other temporary or movable structure used or intended or capable of being used for the accommodation of natural persons; and
- (c) in any other case, any building or portion of a building which is designed for or otherwise capable of separate occupation, whether for business, commercial, industrial, residential or other purposes, the generality of the last mentioned not being limited by the particularity of the former,

provided that:

- (i) any outbuilding which forms an integral part of any unit as hereinbefore defined shall not in itself be construed to be a unit; and
- (ii) the number of units in a camp shall be deemed to be the number of units for which provision is made in the relevant license or authority, or, if such camp is not so licensed or authorised, the number of units determined by the authority, or the authorised provider, as the case may be.

- (lxxvii) water fitting means a component of a water installation, other than a pipe, through which water passes or in which it is stored;
- (lxxviii) water installation means the pipes and water fittings which are situated on any premises and vested in the owner thereof and used or intended to be used in connection with the use of water on such premises, and includes a pipe and water fitting situated outside the boundary of the premises, which either connects to the connection pipe relating to such premises or is otherwise laid with the permission of the authority;
- (lxxix) water scheme means water schemes established or in the course of being established within the area of jurisdiction of the authority for the purposes of providing water supply services;
- (lxxx) water services shall have the same meaning assigned to it in terms of the Act and includes for purposes of these by-laws water for industrial purposes and the disposal of industrial effluent;
- (lxxxi) water services contribution means a water services contribution contemplated in section 5(1)(a) of these by-laws;
- (lxxxii) water services intermediary means a person registered by the authority in terms section 113 of these by laws read with section 24 of the Act;
- (lxxxiii) water services provider means a person approved by the authority in terms of section 104(a) or (b) of these by-laws read with sections 6 and 22 of the Act, as the case may be;
- (lxxxiv) water services surcharge means a surcharge determined in terms of sections 3 and 4 of these by-laws and payable in respect of any water services provided to a consumer in excess of the quota set in terms of section 5(2)(a), (b) or (c) of these by-laws;

- (lxxxv) water supply services includes for purposes of these by-laws water for industrial purposes and the disposal of industrial effluent;
- (lxxxvi) water supply system means the structures, aqueducts, pipes, valves, pumps, meters or other apparatus relating thereto which are vested in the authority and are used or intended to be used by it in connection with the supply of water, and includes any part of the system; and
- (lxxxvii) working day means a day other than a Saturday, Sunday or public holiday.
- (2) In the event of the Minister of Water Affairs and Forestry, at any time after the commencement of these by-laws, prescribing any standards or tariffs in terms of Chapter II of the Act, then, to the extent that any such standard or tariff exceeds any standard or tariff prescribed in terms of these by-laws, the standards or tariffs prescribed by the Minister shall prevail over the standards or tariffs prescribed in terms of these by-laws and these by-laws shall be deemed to have been amended accordingly.
- (3) These by-laws shall be known as the Water Services By-laws.
- (4) Any reference in Chapter 2 of these by-laws to water services or services must be interpreted as referring to water supply services or sanitation services depending on the services to which they are applicable.
- (5) Nothing contained in these by-laws, or done or omitted to be done by any authority or any authorised provider under these by-laws, shall affect the obligation of any person to obtain any license or other authority required under the National Water Act 36 of 1998.
- (6) Whenever in these by-laws any approval is required from or on behalf of the authority or any authorised provider, then such approval shall be obtained in accordance with the procedures prescribed in these by-laws, or as prescribed from time to time by the authority or authorised provider, which procedures shall be provided by the authority or authorised provider to any person on application therefore, and in the event of these by-laws or the authority or authorised provider not having prescribed any specific procedure, then such approval shall be applied for in writing by letter addressed to the authority or authorised provider.
- (7) An authority may in writing appoint any officer in its employ or any other suitably qualified person to carry out any function or power vested in it in these by-laws.
- (8) The authority may, by regulation:
- (a) define the circumstances under which a person or a family shall be deemed to be indigent, provided that it shall take into account any law, regulation, guidelines or policy adopted by the Minister or the Department of Water Affairs and Forestry in this regard;
  - (b) provide that an indigent person or family shall receive a basic water supply and/or basic sanitation, as defined in the Act, free of, or at a reduced, tariff;
  - (c) define the circumstances and the nature of the provision of such services and the withdrawal thereof; and

- (d) if no minimum standards have been prescribed as contemplated in the definitions of basic water supply and basic sanitation in the Act, prescribe such minimum standards.
- (9) Whenever any provision of these by-laws refer to the supply of water services by the authority, such provisions shall apply to the authority as a water services provider as contemplated in section 19(1)(a) of the Act.
- (10) Whenever in these by-laws a meaning, power, function or obligation is vested in the authority or an authorised provider, then such reference shall be interpreted to mean either the authority or the authorised provider or both jointly as the case may be in the particular context.
- (11) The provisions of Parts 4, 5 and 6 of Chapter 2 of these by-laws shall apply only to water services provided by the authority as water services provider.
- (12) Where any provision in these by-laws refer in the same provision to both the authority and a or any authorised provider, such provisions shall be deemed to apply to the authority in respect of the area described in section 1(1)(v)(a), but excluding the areas referred to in sections 1(1)(v)(b) or (c), and to the relevant authorised provider in respect of the areas referred to in sections 1(1)(v)(b) or (c), taking into account the circumstances and context applicable in each case.
- (13) Subject to the requisite power being vested in a local municipality in terms of section 84 or 85 of the Local Government: Municipal Structures Act 117/1998, where an authorised provider that is constituted as a local municipality wishes to adopt by-laws for the purposes of the supply, management and maintenance of water services, it shall give the authority at least three months written notice of such intention and the following provisions shall apply to the adoption of such by-laws:
  - (a) such by-laws shall be compatible with these by-laws;
  - (b) such by-laws may not be amended or repealed without the approval of the authority to ensure that such by-laws remain compatible with these by-laws; and
  - (c) once adopted or amended, such local municipal by-laws shall prevail whenever they supersede or conflict with these by-laws;
  - (d) when repealed, these by-laws shall forthwith apply to such local municipality as though the repealed by-laws had never been adopted or amended.
- (14) The authority may, by resolution, make such regulations as are prescribed under any provision of these by-laws onto clarify the application of any provision thereof and it may from time to time amend or repeal such regulations.
  - (a) The authority shall give 30 days public notice of any resolution it intends to consider under sub-sections (13), and any interested and affected person may within 15 days of the publication of such public notice, object in writing addressed to the authority against the adoption of such resolution and such objections shall be considered by the authority at the time it considers the adoption of such resolution.
  - (b) The authority shall give public notice of any resolution adopted by it under sub-sections (1).

## CHAPTER 2

### PART 1

#### APPLICATION OF BY-LAWS, EXEMPTION FROM APPLICABILITY AND LEVELS OF SERVICE

##### Application of By-laws, Exemption from Applicability, Transitional Arrangements and Levels of Service

- 2 (1) These By-laws shall:
- (a) apply to the provision of all water services by the authority or any authorised provider in the area of jurisdiction of the authority; and
  - (b) shall be interpreted in conformity with any standards or norms and standards for tariffs prescribed by the appropriate Minister from time to time under the powers provided in Chapter 2 of the Act.
- (2) The authority may, by resolution, in writing, exempt any authorised provider, owner, consumer or other person or any category of owners, consumers or other persons, from complying with any provision or provisions of these By-laws, subject to any conditions it may impose, if it is of the opinion that the application or operation of that provision would be so unreasonable as to cause substantial prejudice of a nature or degree which was not intended to flow from the enactment of the provision, and—
- (a) that such exemption would be fair and equitable in the circumstances, or
  - (b) the purpose for which the provision had been enacted has substantially been attained upon compliance with the conditions imposed in any particular case, or
  - (c) the need to attain that purpose is for any reason absent in any particular case;
- provided that the authority shall not grant exemption from any section of these By-laws that may result in—
- (d) the wastage or excessive consumption of water;
  - (e) the evasion or avoidance of water restrictions;
  - (f) significant negative effects on public health, safety or the environment;
  - (g) the non-payment for services;
  - (h) the installation of pipes and fittings which are not approved by or on behalf of the authority in terms of these By-laws;
  - (i) the Act or any regulations made in terms thereof not being complied with; and
  - (j) the determination of tariffs and charges being applied which are not approved or ratified by the authority.



- (3) The authority may, by resolution, at any time after giving written notice of at least thirty days, withdraw any exemption given in terms of subsection (2).
- (4) The authority shall give 30 days public notice of any resolution it intends to consider under subsections (2) or (3), and any interested and affected person may within 15 days of the publication of such public notice, object in writing addressed to the authority against the adoption of such resolution and such objections shall be considered by the authority at the time it considers the adoption of such resolution.
- (5) The authority shall give public notice of any resolution adopted by it under sub-sections (2) or (3).
- (6) The authority shall, and any authorised provider may, provide water services at different levels of service to accommodate different levels of demand and affordability as prescribed providing for:
  - (a) fully serviced urban;
  - (b) partially serviced peri-urban and rural settlement;
  - (c) minimal serviced rural low density settlements;
  - (d) industrial supply.
- (7) The authority may, by regulation, further define the level of services described in subsection (6)(a) to (d).
- (8) The authority may, by regulation:
  - (a) define the circumstances under which a person or a family shall be deemed to be indigent, provided that it shall take into account any law, regulation, guidelines or policy adopted by the Minister or the Department of Water Affairs and Forestry in this regard;
  - (b) provide that an indigent person or family shall receive a basic water supply and/or basic sanitation, as defined in the Act, free of, or at a reduced tariff;
  - (c) define the circumstances and the nature of the provision of such services and the withdrawal thereof; and
  - (d) if no minimum standards have been prescribed as contemplated in the definitions of basic water supply and basic sanitation in the Act, prescribe such minimum standards.
- (9) The authority may, in granting its approval to or the registration of the appointment or any authorised provider in terms of sections 104(1)(a) or (b), 109(1) or 111(1) (as the case may be), impose a condition that such authorised provider shall provide water services at different levels of service to accommodate different levels of demand and affordability as provided in sub-section (6).
- (10) (a) Any law, by-law, or regulation presently on existence and in conflict with these by laws shall, subject to the provisions of the Republic of South Africa Act 108 of 1996, be deemed to be repealed to the extent that such law, by-law or regulation is

in conflict with these By-laws with effect from the date of the commencement of these By-laws in respect of the area of jurisdiction of the authority.

- (b) Notwithstanding the provisions of subsection (a) hereof:
  - (i) any tariff for the provision of water services, any water contribution, additional water contribution, project contribution or additional project contribution or like charge in force at the date of the commencement of these By-laws shall continue to apply and be binding on any person liable for the payment thereof under any law under which such tariff, water contribution, additional water contribution, project contribution or additional project contribution or like charge was determined until substituted by any tariff, water contribution, additional water contribution, project contribution or additional project contribution determined in terms of these By-laws; and
  - (ii) the payment of any amount contemplated in subsection (b)(i) may be enforced by the authority or any authorised provider as though such payment were due under these By-laws, and to the extent necessary for the purposes of such enforcement, shall be deemed to have been determined under these By-laws.
- (11) In the event of any discrepancy being found to exist between the version of these By-laws in the English language and any other version in any other language, then the version in the English language shall prevail.
- (12) The commencement date of these By-laws shall be the date of the publication of these By-laws in terms of section 13(a) of the Local Government: Municipal Systems Act 32 of 2000.

## **PART 2**

### **TARIFF, CHARGES, WATER CONTRIBUTION AND QUOTAS**

#### **Prescribed tariffs and charges for water services**

- 3 (1) All tariffs and/or charges payable in respect of water services rendered by the authority or an authorised provider in respect of any particular water scheme or schemes, including but not limited to, the payment of connection charges, fixed charges or any basic water services charge or other additional charges or interest payable in respect of the failure to pay such tariffs or charges on the specified date, or any water rate, will, in the case of the authority, be set, and, in the case of an authorised provider, be ratified, by the authority by a resolution adopted by the authority in accordance with—
  - (a) the tariff policy of the authority;
  - (b) any by-laws in respect thereof; and
  - (c) any regulations made in terms of section 10 of the Act, provided that the authority shall determine its tariff policy in consultation with every applicable authorised provider.

- (2) The provisions of Part 2 of Chapter 2 of these by-laws must be read with the provisions of any financial regulations applicable to the authority or any authorised provider, and, in the case of a conflict between these by-laws and any such financial regulations, then the provisions of these by-laws shall prevail.
- (3) Each authorised provider shall, at least one month prior to the commencement of each financial year of such authorised provider, submit to the authority a schedule of the tariffs and charges, as contemplated in section 3(1) and (2) and calculated in accordance with the provisions of section 4, that such authorised provider intends to levy during the ensuing financial year and the authority shall, within two months of the receipt of such submissions, ratify or reject such tariff/s and charges in whole or in part.
- (4) In the event that the authority rejects any tariffs and charges set by an authorised provider, then it shall, in writing, provide reasons to the authorised provider for such rejection and the authority and the authorised provider shall seek to reach agreement on the tariff and charges as expeditiously as possible.
- (5) If no agreement contemplated in subsection (4) is reached within 30 days of the receipt by the authorised provider of the written notice contemplated in subsection (4), then the authorised provider may refer such dispute to an arbitrator as provided for in section 35(1) and the decision of such arbitrator shall be final.
- (6) Public notice of every tariff and charges adopted or ratified by the authority shall be given and such tariff and charges shall apply to all applicable consumers from a date 30 days after the publication of such notice, provided that the expense of such public notice shall be born by the authority or authorised provider responsible for the application of the tariff and charges.

### **Determination of Tariffs**

- 4 (1) An authority and an authorised provider must—
  - (a) when determining the revenue requirements on which tariffs for water services are based, take into account—
    - (i) recovery of overhead, operational and maintenance costs;
    - (ii) cost of capital;
    - (iii) depreciation; and
    - (iv) unavoidable water losses.
  - (b) when setting tariffs for water services provided to consumers and other users within its area of jurisdiction or supply, differentiate at least between—
    - (i) water supply services to households;
    - (ii) industrial use of water supplied through a water services work;
    - (iii) water supply services to consumers other than households and industries;
    - (iv) sanitation services to households;

- (v) disposal of industrial effluent to a sewage treatment plant;
  - (vi) sanitation services to consumers other than households and industries,
  - (vi) differing socio-economic groups and the indigent; and
  - (viii) the application of a quota or additional quota to any project in terms of section 5(2)(a), (b) or (c).
- (c) when setting tariffs for providing water services to households, differentiate between different types of water services provided.
- (2) Tariffs set must differentiate at least between—
- (a) water supply services to households provided through communal water services networks;
  - (b) water supply services provided through water services networks or consumer installations designed to provide a controlled volume to a household;
  - (c) water supply services provided through water services networks or consumer installations designed to provide an unmetered volume to a household;
  - (d) sanitation services provided through the on-site disposal of domestic waste water and sewage from households; and
  - (e) sanitation services provided through the discharge of domestic waste water and sewage from households to an effluent treatment works.
- (3) Tariffs—
- (a) for water supply services to households through a communal water services networks must be based on—
    - (i) a fixed monthly charge calculated on—
      - operations and maintenance costs;
      - capital costs not financed through any grant, subsidy or donation received in connection with the construction or refurbishment thereof; and / or
    - (ii) a volume based charge.
  - (b) for water supply services through water services networks or consumer installations designed to provide a controlled volume to a household must be based on—
    - (i) a fixed monthly charge calculated on—
      - the estimated volume used;
      - operations and maintenance costs;

- capital costs not financed through any grant, subsidy or donation received in connection with the construction or refurbishment thereof; and for
- (ii) a volume based charge.
- (c) for the provision of water supply services through water services networks or consumer installations designed to provide an uncontrolled volume to a household must be based on a flat rate calculated so as to recover, for the authority or authorised provider;
  - (i) all overhead, operational and maintenance costs;
  - (ii) cost of capital;
  - (iii) depreciation, and
  - (iv) any statutory contributions to any prescribed statutory funds.
- (d) for the supply of water through a water services work or a consumer installation for industrial use must—
  - (i) be based on the volume provided; and
  - (ii) recover, at least, the capital costs, operations costs, and maintenance costs associated with that supply.
- (e) for the supply of water through a water services work or a consumer installation to consumers other than households and industries must—
  - (i) be based on the volume provided; and
  - (ii) recover at least the capital costs, operations costs, and maintenance costs associated with that supply.
- (f) for the disposal of domestic waste water and sewage from households to a sewage treatment plant must be based on—
  - (i) a fixed monthly charge calculated on:
    - the estimated volume water used;
    - operations and maintenance costs;
    - capital costs not financed through any grant, subsidy or donation received in connection with the construction or refurbishment thereof; or
  - (i) the volume discharged, where volume is measured as a percentage of total water supplied; and
  - (ii) an estimate of the cost that will be reasonably incurred in collecting, conveying, treating and disposing of the industrial effluent to comply with

quality standards set for discharge to a water resource, including additional costs related to the treating of specific pollutants; and

- (iii) any costs that may be payable for discharge to a water resource.
- (g) for the disposal of industrial effluent discharged to a sewage treatment plant must be based on—
- (i) either the quantity of water consumed by the consumer in the disposal of effluent; or
  - (ii) the volume of such effluent discharged to a water services work; and
  - (iii) an estimate of the cost that will be reasonably incurred in collecting, conveying, treating and disposing of the effluent to comply with quality standards set for discharge to a water resource, including additional costs related to the treating of specific pollutants; and
  - (iv) any costs that may be payable for discharge to a water resource.
- (4) An authority or the authorised provider, may include a monthly fixed charge in the tariffs set for providing water services to consumers and other users over and above the tariffs referred to in subsections (3)(c) to (g) above.
- (5) An authority or the authorised provider:
- (a) must charge a fee for connecting a consumer or another water services institution to a water services work;
  - (b) may charge any consumer connected to or connecting to a water services work without the authorisation of the relevant authority or authorised provider a connection fee, irrespective of any other action the authority or authorised provider may take against such person;
  - (c) in addition to the tariffs or charges prescribed for water services actually provided, levy a monthly fixed charge, annual fixed charge or once-off fixed charge in respect of the provision of water services in accordance with—
    - (i) the tariff policy of the authority;
    - (ii) any by-laws in respect thereof; and
    - (iii) any regulations in terms of section 10 of the Act.
- (6) Where a fixed charge is levied in terms of subsection (4), it shall be payable by every owner or consumer in respect of water services provided by the authority or an authorised provider to him, her or it, whether or not water services are used by him, her or it.
- (7) (a) For the purposes of this clause:
- (i) camp means a camping site or a caravan park or a combination of a camping site and caravan park comprising one or more sites for the temporary erection or parking of units.

- (ii) cluster housing means a consumer unit comprising more than one dwelling, whether adjoining each other or otherwise, grouped together on one subdivision as depicted on a diagram thereof as defined in the Land Survey Act 8 of 1997, or where such subdivision exceeds 1 hectare in extent, on naturally forming a cohesive unit around such dwellings;
  - (iii) flat means a consumer unit comprising a set of rooms being a residence entirely on one floor of a building;
  - (iv) hotel means a consumer unit comprising a commercially run establishment or private house providing on-going overnight accommodation and meals for paying guests, and shall include a bed and breakfast establishment and guest house;
  - (v) single dwelling means a consumer unit comprising a single free standing dwelling, together with outbuildings associated therewith, situated on one subdivision as depicted on a diagram thereof as defined in the Land Survey Act 8 of 1997, or where such subdivision exceeds 1 hectare in extent, on a piece of land naturally forming a cohesive unit around such dwelling and outbuildings;
- (8) (a) The authority and every authorised provider shall, whenever it sets a tariff for the purposes of these by-laws, in addition to any other tariffs, set tariffs for the following purposes:
- (i) a contribution rate for the calculation of water services contributions and additional water services contributions;
  - (ii) a contribution rate for the calculation of project contributions and additional project contributions;
  - (iii) a basic water services charge; and
  - (iv) a water services surcharge.
- (b) For the purposes of a project contribution, an additional project contribution, a basic water services charge and a water services surcharge, the authority or an authorised provider may differentiate between a camp, cluster housing, flats, hotels, single dwellings and any other improvements to premises designed for any lawful use.
- (9) The authority and the authorised provider shall give public notice of any tariffs adopted or amended by it from time to time by publication thereof in the Provincial Gazette which notice shall also state the date from which any such tariff shall apply, from which date any previous tariff shall be deemed to have been superseded.

### **Water Services Contributions**

- 5 (1) (a) Whenever a developer is required to obtain any water services from the authority or an authorised provider to all or any consumer units or premises in a development as a condition of the approval of such development by a development authority, the authority or any authorised provider may require such developer to pay a water contribution to the authority or any authorised provider

as a condition precedent to the provision of such water services as a contribution to the capital costs of installing and providing such water services.

(b) Whenever the use to which any consumer unit or premises may be put is changed and such change requires the approval of a development authority under any law and involves or may involve the authority or an authorised provider in additional capital costs in relation to the installation and provision of water services to such consumer unit or premises, the authority or the authorised provider may:

(i) upon the development or proposed development of such consumer unit or premises in accordance with such altered use; and

(ii) upon being requested to provide water services to such consumer unit or premises or to continue or enlarge the provision of water services to such consumer unit or premises,

assess, in accordance with the provisions of subsections (c) and (d), an additional water services contribution towards costs in which it will or may subsequently be involved in making, continuing or enlarging the provision of such water services and require payment by the developer of the additional contribution so assessed as a condition precedent to the making, continuing or enlargement of such provision.

(c) The authority or an authorised provider may differentiate between water supply services and sanitation services in the calculation and levying of any contribution.

(d) The amount of such contribution shall be determined by the authority and every authorised provider as provided in sections 3 and 4 of these by-laws, and shall be assessed on every lot comprising the development, except:

(i) any lot in respect of which a demand for water services is unlikely to arise;

(ii) any lot which is created for the specific purpose of consolidation with one or more adjoining lots in conformity with the provisions of the development's conditions of establishment; provided that where the consolidation will be comprised entirely of lots which are not entitled to any water services from the authority or authorised provider, one of such lots shall be subject to assessment;

(iii) any lot reserved in the township's conditions of establishment for public purposes or educational purposes; and

(iv) any residual lot: provided that where the authority will incur any additional costs in order to continue providing water services to or from any dwelling or project on any residual lot, the authority may, with the prior written approval of the Council of the authority, or, in the case of an authorised provider, the authority, require the developer to contribute such sum of money as will compensate the authority for such additional costs.

(e) The contribution shall compensate the authority or the authorised provider for the estimated capital expenditure incurred in the provision of water services to which it will be committed in providing the water services contemplated in the development after taking into account the loan charge element in the authority's or the authorised provider's existing tariffs or rates, and such estimate shall take into account capital expenditure in respect of:



- (i) raw water storage, conveyance and purification works;
  - (ii) trunk mains;
  - (iii) underground and ground level reservoir storage;
  - (iv) reticulation;
  - (v) sewerage reticulation;
  - (vi) trunk sewers;
  - (vii) pumping installations; and
  - (viii) sewage treatment networks, as the case may be.
- (f) The minimum quantity of water to be supplied or sewage to be accepted from any lot subject to assessment as herein provided shall be deemed to be:
- (i) in the case of water 2 kilolitres per day where such lot is zoned for industrial purposes and 1 kilolitres per day where such lot is zoned for any other purpose, and
  - (ii) in the case of sewage 1.5 kilolitres per day where such lot is zoned for industrial purposes and 0.75 kilolitres per day where such lot is zoned for any other purpose.
- (g) Where, due to the elevation of a development, or its situation in relation to the authority's or the authorised provider's water supply system or sewage disposal system, or any other exceptional circumstances, the authority or the authorised provider will be put to extraordinary expense in providing water services to or from that development, the authority or the authorised provider may require the developer to contribute such sum of money, over and above that provided for in subsections (a) or (b), as will compensate the authority for such extraordinary expense; provided that where such exceptional circumstances arise from engineering considerations necessitating the premature installation of works of a capacity substantially greater than actually required for the provision of water services to or from that development, the authority may agree to refund the whole or part of such additional contribution on such basis and at such time as may be agreed upon between the authority or the authorised provider and the developer.
- (h) The provisions of subsection (g) may not be invoked except with the prior written approval of the Council of the authority.
- (i) A developer shall make application to the authority or authorised provider in writing for any assurance required by any development authority that the authority or the authorised provider is able to provide water services to any development, and he shall, in such application, provide full details of the development so as to enable the authority or the authorised provider to assess the works required and the estimated capital expenditure which will be required to provide the water services applied for.

- (j) The authority or the authorised provider may, within 30 days of the receipt of such application, request the developer to provide such additional information as it may require in order to make the assessment called for in subsection (i) and the developer shall provide such additional information.
- (k) The authority or the authorised provider shall, within 60 days of any application received in terms of subsection (i), notify the developer whether it is able to provide the water services requested or a part thereof and it shall, at the same time, notify the developer of the contribution payable.
- (l) Subject to subsection (n), neither the authority nor the authorised provider shall undertake any capital expenditure in respect of any development in respect of which a contribution is payable until the amount assessed in terms of subsection (k) has been paid.
- (m) The authority or an authorised provider may, on written application by a developer, accept payment of a contribution by way of instalments provided that:
  - (i) the contribution payable is irrevocably secured to the satisfaction of the authority or the authorised provider;
  - (ii) interest is payable on the capital amount of the contribution, or any balance owing from time to time at a rate at which the authority may borrow money, which interest shall be a first charge on any amount paid by the developer on account of such contribution; and
  - (iii) an agreement between the authority or the authorised provider on the one hand and the developer on the other hand is concluded in writing recording at least the amounts of each instalment, the date for the payment of interest and capital, the place of payment and providing that if any one instalment is not paid on the date that it is due, the whole of the contribution then outstanding together with any outstanding interest shall immediately be due and payable,

in which case the authority or the authorised provider shall be entitled to undertake such capital expenditure upon the provision of the irrevocable security and the signature of the agreement.

- (n) The Council of the authority or an authorised provider may, in respect of any development in its area of jurisdiction, reduce or waive the contribution payable by any developer for good cause, including any development arising from any land reform project as contemplated in sections 25(4)(a), (5), (6), (7) or (8) of the Constitution of the Republic of South Africa, Act 108 of 1996 or any low-income State subsidised housing project.
- (o) The authority shall from time to time, but not less than once annually, determine and cause to be published in the Official Gazette a contribution rate to be applied during the following year by the authority and any authorised provider which shall be binding on the authority and all authorised providers.
- (p) Where an authorised provider can substantiate the application of a contribution rate in respect of any particular development substantially different from that determined by the authority, such authorised provider may, with the prior approval of the authority, apply such other contribution rate.

- (q) The authority shall, at the expense of the authorised provider concerned, cause to be published in the Official Gazette a notice setting out any contribution rate approved by it in accordance with subsection (p).
- (r) The contribution shall be assessed by multiplying the minimum quantity as set out in subsection (f)(i) or (ii) or both as the case may be by the contribution rate to be applied in the year in which payment is made.
- (s) Any dispute arising from the interpretation and implementation of this section 5(1) between the authority and any authorised provider, or between the authority or any authorised provider and any developer shall be resolved by arbitration as provided in section 35.

## **Quota**

5. (2)
- (a) Whenever a consumer establishes a project on any premises and requires water services to be provided to such project by the authority or an authorised provider, such consumer shall, prior to the establishment of such project, apply to the authority or the authorised provider from whom such water services are to be obtained for the assessment of a project contribution and a quota in respect of such project in accordance with subsection (d).
  - (b) Any quota allocated to any premises in respect of a project on any premises at the commencement of these by-laws under any law superseded by these by-laws or the KwaZulu-Natal Water Services Ordinance 27 of 1963 shall be deemed to have been allocated under these by-laws and such quota shall, from such date, be subject to the provisions of these by-laws and any consumer aggrieved by the alteration of any terms and conditions applicable to the quota issued to him as a consequence of the provisions of subsection (b) may, within 30 days of the commencement of these by-laws and in writing supported by adequate motivation, appeal to the authority for relief.
  - (c) Whenever an existing project is altered, refurbished, extended or rebuilt and such alteration, refurbishment, extension or rebuilding requires the approval of a development authority under any law and involves or may involve the authority or an authorised provider in additional capital costs in relation to the installation and provision of water services to such consumer unit or premises, the consumer in respect of such project shall apply to the authority or the authorised provider for the assessment of an additional project contribution and an additional quota in accordance with subsection (d).
  - (d) A consumer required to apply to the authority or an authorised provider for a quota or an additional quota or the assessment of a project or additional project contribution, shall, in writing:
    - (i) advise the authority or the authorised provider of his intention and provide sufficient detail in such application to enable the authority or the authorised provider to evaluate the project and determine the nature and quantity of water services required and the infrastructure contemplated in subsection (h)(ii) required to provide the requisite water services;
    - (ii) state the registered description of the premises at which the project is situated;

- (iii) state the quota or additional quota which he wants to be supplied to the project on completion;
  - (iv) state his domicilium citandi et executandi;
  - (v) make application, in terms of the authority's bylaws or the authorised provider's conditions of supply, for a temporary supply of water for construction purposes, if needed; and
  - (vi) make application, in terms of the authority's bylaws or the authorised provider's conditions of supply, for a permanent connection for the supply of water to the project on completion.
- (e) The authority or the authorised provider shall from time to time by regulation prescribe:
- (i) the quota or additional quota; and
  - (ii) the project contribution or additional project contribution,
- applicable to any particular category of project and the method or means whereby such quota, additional quota, project contribution or additional project contribution is to be determined.
- (f) The consumer to whom a quota or additional quota has been allocated shall pay:
- (i) a basic water services charge in respect of water services provided to such consumer under any quota or additional quota issued to such consumer under subsections (a), (b) or (c), irrespective of the quantity used but not exceeding the quota or additional quota issued to such consumer; and
  - (ii) a water services surcharge in respect of any water services used in excess of the quota or additional quota issued to such consumer.
- (g) The basic water charge and water services surcharge referred to in subsection (f) shall be paid monthly in terms of the provisions of Parts 3 and 4 of these by-laws.
- (h) A project contribution or additional project contribution shall:
- (i) be paid to, or the payment thereof shall be secured to the satisfaction of, the authority or the authorised provider prior to the provision of the water services applied for to the project concerned and the authority or the authorised provider shall have no obligation to provide such water services until the requisite amount has been so paid or secured;
  - (ii) compensate the authority or the authorised provider for the estimated capital expenditure incurred in the provision of water services to which it will be committed in providing the water services required by the project concerned after taking into account the loan charge element in the authority's or the authorised provider's existing tariffs or rates, and such estimate shall take into account capital expenditure in respect of raw water storage, conveyance and purification networks, trunk mains, is and ground level reservoir storage, reticulation, sewerage reticulation, trunk sewers, pumping

installations and sewage t networks, as the case may be provided that where a water contribution or additional water contribution is payable in respect of the same premises on which the project is situated, then the amount of any water contribution or additional water contribution shall be deducted from the project contribution or additional project contribution and the consumer concerned shall only pay the balance of the project contribution or additional project contribution left after such deduction, if any, it being the intention that the concerned shall not pay the costs of the same infrastructure twice.

- (i) Where, due to the elevation of a development, or its situation in relation to the authority's or the authorised provider's water supply system or sewage disposal system, or any other exceptional circumstances, the authority or the authorised provider will be put to extraordinary expense in providing water services to or from that project, the authority or the authorised provider may require the consumer concerned to contribute such sum of money, over and above that provided for in subsection (e) as will compensate the authority for such extraordinary expense; provided that where such exceptional circumstances arise from engineering considerations the premature installation of works of a capacity substantially greater than actually required for the provision of water services to or from that project, the authority or the authorised provider may agree to refund the whole or part of such additional contribution on such basis and at such time as may be agreed upon between the authority and the consumer concerned.
- (j) The provisions of subsection (i) may not be invoked except with the prior written approval of the Council of the authority.

### **Clearance Certificate**

- 5. (3) (a) Any water contribution, additional water contribution, project contribution or additional project contribution assessed and levied by the authority or an authorised provider shall be paid prior to the transfer of any premises to which any such contribution is paid and the competent Registrar of Deeds shall not register any such transfer unless there is first exhibited to him a certificate issued by the authority or an authorised provider that such contribution has been paid.

## **PART 3**

### **APPLICATION FOR WATER SERVICES**

#### **Application for water services**

- 6. (1) (a) Subject to the provisions of these by-laws and the Act, no person shall, in any area of jurisdiction, gain access to water services from any water supply system, sewage disposal system or through any other sanitation services unless he or she has applied to the authority or an authorised provider on a form prescribed by the authority or an authorised provider for such services for a specific purpose and such application has been agreed to.
- (b) An authorised provider shall provide only such water services as it is entitled to provide in terms of its agreement, approval of registration with the authority, and as provided in the Act.

- (2) Where premises or consumers are provided with water services, it shall be deemed that an agreement in terms of subsection (1) exists.
- (3) An authority or an authorised provider must on application for the provision of water services by a consumer inform that consumer of the different levels of services available, the tariffs and or charges associated with each level of services and the conditions which shall be applicable to the agreement to provide water services.
- (4) A consumer must elect the available level of services to be provided to such consumer, provided that such level of services is or are available in the area where the consumer requires such services.
- (5) A consumer may at any time apply to alter the level of services elected in terms of the agreement entered into, provided that such service is available and that any costs and expenditure associated with altering the level of services will be payable by the consumer.
- (6)
  - (a) An application agreed to by the authority or an authorised provider shall, together with such additional conditions as may be imposed, constitute an agreement between the authority or the authorised provider, on the one hand, and the applicant, on the other hand, and such agreement shall take effect on the date referred to or stipulated in such agreement.
  - (b) The authority and any authorised provider may impose such reasonable conditions, consistent with the Act and these by-laws, for the supply of water services, and such conditions shall be included in any agreement for such supply contemplated in section 6(1)(a) or (b), or 6(2).
- (7) A consumer shall be liable for all the prescribed tariffs and or charges in respect of water services rendered to him or her by the authority or an authorised provider, until the agreement contemplated in this section or in section 8 has been terminated in accordance with these by-laws, or until all or any arrears owing by such consumer have been paid, which ever shall be the later date.
- (8) In preparing an application form for services for the purposes of making an application as contemplated in subsection (1), the authority or the authorised provider, will ensure that the document and the process of interaction with the owner, consumer or any other person making application are understood by that owner, consumer or other person, provided that in the case of illiterate or similarly disadvantaged persons, the authority or the authorised provider, will take reasonable steps to ensure that the person is aware of and the contents of the application form.
- (9) An application form will require at least the following minimum information—
  - (a) certification by a person authorised under section 1(7) of these by-laws in the case of an application to the authority and by the authorised provider in the case of an application to such authorised provider that the applicant is aware of and understands the contents of the form as completed by or on behalf of such applicant;
  - (b) acceptance by the consumer of the provisions of the by-laws and acceptance of liability for the cost of water services rendered until the agreement is terminated or until such time as any arrears have been paid;

- (c) name and identity number of consumer;
  - (d) address or stand number of premises to or on which water services are to be rendered or the communal water services work where water services will be used;
  - (e) address where accounts will be sent;
  - (f) the purpose for which the water is to be used;
  - (g) the agreed date which the provision of water services will commence.
- (10) Water services rendered to a consumer by the authority or any authorised provider are subject to the provisions of these by-laws and the conditions contained in the relevant agreement.
- (11) If an authority or an authorised provider refuses an application for the provision of water services, is unable to render such water services on the date requested for the provision of such water services to commence or is unable to render the water services, the authority or the authorised provider, will inform the consumer of such refusal and/or inability, the reasons therefore and, if applicable, when the authority or the authorised provider, will be able to provide such water services.
- (12) Subject to the provisions of sub-section (11), the authority or an authorised provider shall, in ordinary circumstances, provide water services in terms of these by-laws within 48 hours of any application for such services being approved by the authority or the authorised provider, as the case may be.
- (13) If a consumer absconds, dies or is incapacitated and:
- (a) despite reasonable and diligent search cannot be located, or
  - (b) the next of kin of such consumer fail or neglect to cause an executor, representative or curator, as the case may be, to be appointed within a reasonable time after such death or incapacity to comply with the obligations of the consumer under any agreement concluded under this section or section 7,

then the authority, or the authorised provider, may serve notice in terms of section 26 on any occupier or person in charge of the premises to which any agreement as aforesaid applies and in such notice the authority or the authorised provider, may notify such occupier or person in charge, that with effect from a date 14 days after the delivery of such notice to such occupier or person in charge, he or she shall be deemed to be the consumer under the aforesaid agreement and liable to comply with all the duties and obligations of the consumer in respect of water services supplied to such premises under the said agreement.

- (14) Any occupier or person in charge on whom a notice in terms of subsection 13 is served may, during the period of 14 days referred to in that subsection, provide the authority or the authorised provider, with the name and address of the immediate next of kin of the deceased or incapacitated consumer, and, provided that such information is found on investigation by the authority or the authorised provider, to be accurate and provided further that such next of kin is, in fact, a consumer of the water services supplied under the agreement, such next of kin shall, instead of the occupier or person in charge, be deemed to be the consumer under the aforesaid agreement and liable to comply with all

the duties and obligations of the consumer in respect of water services supplied to such premises under the said agreement.

- (15) On receipt of the information from such occupier or person in charge, and provided that such next of kin is, in fact a consumer of the water services supplied under the agreement, the authority or the authorised provider, shall serve a written notice in terms of section 26 on such next of kin, notifying such next of kin that with effect from a date of delivery of such notice to such next of kin, he or she shall be deemed to be the consumer under the aforesaid agreement and liable to comply with all the duties and obligations of the consumer in respect of water services supplied to such premises under the said agreement.
- (16) The authority or the authorised provider, shall be deemed to have undertaken a reasonable and diligent search as contemplated in sub-section 13(a) if it has:
- (a) made direct enquiries amongst the community where the premises concerned are located;
  - (b) posted a notice or notices at public places in the vicinity of the premises concerned in the language most commonly spoken in the community where the premises are located, calling upon persons to advise the authority or the provider, of the whereabouts of the consumer concerned; and
  - (c) published a notice in a newspaper circulating in the area where the premises concerned are situated in a language most commonly spoken in the community where the premises are located,

and has followed up and properly checked any information provided as a consequence of such activities.

### **Special agreements for water services**

7. The authority or the authorised provider, may enter into a special agreement for the provision of water services to—
- (a) an applicant inside its area of jurisdiction or supply, if the service applied for necessitates the imposition of conditions not contained in the prescribed form; and
  - (b) an applicant outside its area of jurisdiction or supply, if such application has been approved by the authority or the authorised provider, having jurisdiction or supplying water services in the area in which the premises is situated.

## **PART 4**

### **PAYMENT**

(See Section 1(11))

### **Payment of deposit**

8. (1) Every consumer must on application for the provision of water services and before such water services will be provided by the authority, deposit with the authority a sum of money not less than the estimated tariff and/or charge for an average month's water services and not more than the estimated tariff and/or charge for an average four



month's water services as de by the authority, except in the case of a prepayment measuring device being used by the authority.

- (2) The authority may require a consumer to whom services are provided and who was not previously required to pay a deposit, for whatever reason, to pay a deposit on request, within a specified period.
- (3) The authority shall determine the actual deposit payable in terms of subsections (1) or (2), and it shall take the following factors into account in making such determination—
  - (a) the income of the consumer;
  - (b) the capacity of the consumer to pay and set aside such amount;
  - (c) the frequency of default in payment of water accounts by the consumer or members of the community of which the consumer is a member;
  - (d) the estimated amount of the monthly water consumption of the consumer;
  - (e) its tariff policy and the criteria contemplated in section 3(1)(a).
- (4) The authority may from time to time review the sum of money deposited by a consumer in terms of subsection (1) and, in accordance with such review—
  - (a) require that an additional amount be deposited by the consumer; or
  - (b) refund to the consumer such amount as may be held by the authority in excess of the reviewed deposit.
- (5) Subject to subsection (6), an amount deposited with the authority in terms of subsections (1) or (2) shall not be regarded as being in payment or part payment of an account due for water services rendered.
- (6) If, upon the termination of the agreement for the provision of water services, an amount remains due to the authority in respect of water services rendered to the consumer, the authority may apply the deposit in payment or part payment of the outstanding amount and refund any balance to the consumer.
- (7) No interest shall be payable by the authority on the amount of a deposit held by it in terms of this section.
- (8) An agreement for the provision of water services may contain a condition that a deposit shall be forfeited to the authority if it has not been claimed within twelve months of the termination of the agreement.

### **Payment for water services provided**

9. (1) Water services provided by the authority to a consumer shall be paid for by the consumer at the prescribed tariff or charge set in accordance with Sections 3 and 4, for the particular category of water services provided.
- (2) A consumer shall be responsible for payment for all water services provided to the consumer from the date of an agreement until the date of termination thereof.

- (3) The authority may estimate the quantity of water services provided in respect of a period or periods within the interval between successive measurements and may render an account to a consumer for the services so estimated.
- (4) If a consumer uses water supply services for a category of use other than that for which it is provided by the authority in terms of an agreement and as a consequence is charged at a rate lower than the rate which should have been charged, the authority may make an adjustment of the amount charged in accordance with the rate which should have been charged and recover from the consumer the tariffs and charges payable in accordance with such adjustment.
- (5) If amendments to the prescribed tariffs or charges for water services provided become operative on a date between measurements for the purpose of rendering an account in respect of the tariffs or charges—
  - (a) it shall be deemed that the same quantity of water services was provided in each period of twenty-four hours during the interval between the measurements; and
  - (b) any fixed charge shall be calculated on a pro rata basis in accordance with the charge that applied immediately before such amendment and such amended charge.
- (6) A consumer must pay his, her or its account to the authority and shall remain liable for the payment of an account until paid to the authority.
- (7) An authority must inform a consumer as to who the authorised agents (if any) are who are authorised to receive payment of accounts on its behalf.

## **PART 5**

### **ACCOUNTS**

(See section 1(11))

#### **Accounts**

10. (1) Monthly accounts will be rendered to consumers for the amount due and payable, at the address last recorded with the authority.
- (2) Failure by the authority to render an account does not relieve a consumer of the obligation to pay any amount due and payable.
- (3) An account rendered by the authority for water services provided to a consumer shall be paid not later than the last date for payment specified in such account, which date will be at least twenty-one days after the date of the account.
- (4) If payment of an account is received after the date referred to in sub-section (3), a late payment charge or interest, as prescribed in terms of section 13(6), must be paid by the consumer to the authority, provided that the authority may, in appropriate circumstances and for good cause, waive such late payment charge or interest or both.
- (5) Accounts will—
  - (a) show the following—

- (i) the consumption or estimated consumption or assumed consumption as determined for the measuring and or consumption period;
  - (ii) the measuring or consumption period;
  - (iii) the applicable tariff;
  - (iv) the amount due in terms of the consumption;
  - (v) the amount due and payable for any other service rendered by the authority or the authorised agent;
  - (vi) the amount in arrears, if any;
  - (vii) the interest payable on any arrears, if any;
  - (viii) the final date for payment;
  - (ix) the methods places and the names and location of any authorised agents where payment may be made; and
- (b) state that—
- (i) the consumer may conclude an agreement with the authority for payment of the arrears amount in instalments, at the authority offices before the final date for payment, if a consumer is unable to pay the full amount due and payable;
  - (ii) if no such agreement is entered into the authority will limit the water services after sending a final demand notice to the consumer; and
  - (iii) that legal action may be instituted against any consumer for the recovery of any amount sixty days in arrears;
  - (iv) proof of registration, as an indigent consumer, in terms of the authority's indigent policy must be handed in before the final date for payment; and
  - (v) an indigent consumer is only entitled to a basic water supply and basic sanitation as defined in the Act and that an indigent consumer will be liable for payment in respect of water services used in excess of the quantity of such basic water supply or basic sanitation.
- (6) Notwithstanding the provisions of sections 25 and 26, where the premises to which water services are provided are situated at an area which does not have a formal physical or postal address, the authority may direct the officer charged with reading the meters measuring the quantity of water services provided to such premises on or about the same date in each month to advise the consumer or a person apparently over the age of 16 years and present at the premises, of the amount payable for the water services supplied to such premises during the immediate preceding month, and he or she shall direct such consumer to make such payment at the nearest office appointed by the authority for the receipt of payments for water services within five working days.

- (7) At the time that the consumer concerned calls at the office referred to in subsection (6) as directed, the authority shall present such consumer with a written account which complies with the provisions of subsection (5) and which account shall be deemed to be the account rendered as provided form subsection (1).
- (8) All payments made to the authority in respect of any amount payable under these by-laws, including any arrears, interest or penalties shall be made in cheque or by electronic deposit to the authorities banking account, and such payment shall be deemed to have been received when:
  - (a) an official receipt is issued therefore by the authority, or
  - (b) such amount is credited to the bank account of the authority in such a manner that the authority may immediately deal therewith, whichever is the sooner.
- (9) All payments shall be made only to the offices of the authority or at such other places as the authority may in writing appoint.

### **Queries in respect of account**

11. (1) A consumer may lodge a query in respect of the accuracy of the amount due and payable in terms of an account rendered to him, her or it with the authority.
- (2) A query must be lodged with the authority before or on the due date for payment of the account or as soon as reasonably possible thereafter.
- (3) Where a query is lodged, such query must be accompanied by the payment of at least an amount equal to the average amount that was due and payable during the preceding three months.
- (4) The authority will register the query and shall acknowledge receipt of the query within two working days of the receipt thereof and provide the consumer with a reference number.
- (5) The authority shall—
  - (a) investigate or cause the query to be investigated within fourteen working days after the query or complaint was registered; and
  - (b) must inform the consumer, in writing, of his or her finding as soon as possible thereafter.

### **Appeals against finding of authority in respect of queries**

12. (1) A consumer may in writing appeal to the authority against a finding of the authority in section 11.
- (2) An appeal and request in terms of subsection (1) must be made in writing and lodged with the authority within twenty-one days after the consumer became aware of the finding referred to in section 11 and must—
  - (a) set out the reasons for the appeal; and

- (b) be accompanied by any deposit determined by the authority in terms of these by-laws for the testing of a measuring device, if applicable.
- (3) The authority shall appoint an officer conversant in the home language of a consumer who is illiterate or not able functionally to understand the appeals process to assist the consumer in preparing, lodging and prosecuting his or her appeal and such officer shall at all times act impartially in regard to such assistance and shall observe the confidentiality of any information imparted to him or her by the consumer unless authorised to disclose such information by the consumer.
- (4) The authority may on appeal by a consumer request him, her or it to pay the full amount due and payable in terms of the account appealed against.
- (5) The consumer is liable for all other amounts, other than that appealed against, falling due and payable during the adjudication of the appeal.
- (6) An appeal must be decided by the authority within 60 days after an appeal was lodged and the consumer must be informed of the outcome in writing, as soon as possible thereafter.
- (7) The decision of the authority is final and the consumer must pay any amounts due and payable in terms of the decision within twenty-one days of him, her or it being informed of the outcome of the appeal.
- (8) The authority may condone the late lodging of appeals or other procedural irregularities.
- (9) If it is alleged in an appeal that a measuring device is inaccurate, the device must be subjected to a standard industry test to establish its accuracy. The consumer must be informed of the possible cost implications including the estimated amount of such test, as set out in subsection (10)(a) below, prior to such test being undertaken.
- (10) If the outcome of any test shows that a measuring device is—
  - (a) within a prescribed range of accuracy, the consumer will be liable for the costs of such test and any other amounts outstanding and such costs will be debited against the consumer's account;
  - (b) is outside a prescribed range of accuracy, the authority will be liable for the costs of such test and the consumer must be informed of the amount of any credit to which he or she is entitled.
- (11) The prescribed charge referred to in subsection (2)(b), if applicable shall be—
  - (a) retained by the authority if the measuring device is found not to be defective; or
  - (b) refunded to the applicant if the measuring device is found in terms of those subsections to be defective.
- (12) A measuring device shall be deemed to be defective if, when tested in accordance with a standard industry test or if the measuring device is a meter, the regulations published under section 9 of the Act, it does not meet generally accepted specifications or the specifications as set out in the regulations.

- (13) In addition to subsection (10) the authority must, if the measuring device is found defective—
- (a) repair the measuring device or install another device which is in good working order, without charge to the consumer, unless the costs thereof are recoverable from the consumer due to a contravention of section 45(6); and
  - (b) determine the quantity of water services for which the consumer will be charged in lieu of the quantity measured by the defective measuring device by applying the provisions of section 51.
- (17) Any appeal under this section shall be heard by a sub-committee of the Council of the water service authority specially appointed for such purpose, and the appellant may, in his discretion, appoint a person of his choosing, who need not be a member of the said Council, to be a member of such sub-committee with full power to participate and vote at any meeting of such sub-committee.
- (18) The authority may, by agreement with any water services provider approved in terms of section 104(1)(a) or (b), any water services provider nominated in terms of section 109, or any water services intermediary registered in terms of section 111, receive, hear and adjudicate on any appeals lodged with it by any person receiving water services from such water services provider or water services intermediary, subject to such conditions as may be contained in any such agreement.
- (19) The authority may impose a right of appeal as contemplated in sub-section (16) as a condition of approval, nomination or registration of a water services provider or water services intermediary, as the case may be.

### **Arrears**

13. (1) If a consumer fails to pay the amount/s due and payable on or before the final date for payment, the unpaid amount is in arrears and a final demand and disconnection notice may be hand delivered or sent, per registered mail, to the most recent recorded address of the consumer.
- (2) In the case of a consumer contemplated in section 10(6), such final demand shall be delivered to the consumer concerned at the premises to which the water services are supplied by an officer appointed by the authority for that purpose, and delivery of the demand in the following manner shall be deemed to be proper delivery of the demand:
- (a) by delivery of the final demand to the consumer personally;
  - (b) in the absence of the consumer after two consecutive attempts to serve the demand on him or her personally, by delivery of the final demand to a person apparently over the age of 16 years present at the premises;
  - (c) in the absence of any person over the age of 16 years present at the premises after two consecutive attempts to serve the demand on such person, by affixing the demand to a prominent structure at the premises.
- (3) The authority shall appoint an officer conversant in the home language of a consumer who is illiterate or not able functionally to understand the purpose and consequences of a final demand to assist the consumer in responding to such demand, to defend such consumer if such consumer has a viable defence, and generally to ensure that the

consumer is treated fairly and in accordance with the provisions of these by-laws and the Act, and such officer shall at all times act impartially in regard to such assistance and shall observe the confidentiality of any information imparted to him or her by the consumer unless authorised to disclose such information by the consumer.

- (4) Failure to deliver or send a final demand notice does not relieve a consumer from paying such arrears.
- (5) The final demand notice must contain the following statements, in a language which the consumer is able to understand—
  - (a) the amount in arrears and any interest payable;
  - (b) that the consumer may conclude an agreement with the authority for payment of the arrears amount in instalments within fourteen days of the date of the final demand notice;
  - (c) that if no such agreement is entered into within the stated period that the water services will be limited and that legal action may be instituted against any consumer for the recovery of any amounts sixty days in arrears;
  - (d) proof of registration, as an indigent consumer, in terms of the authority's indigent policy must be handed in before the final date of the final demand notice.
  - (e) that an indigent consumer is only entitled to basic water supply and or basic sanitation, as defined in the Act and in accordance with any regulations adopted by the authority in terms of section 2(8) and that an indigent consumer will be liable for payment in respect of water services used in excess of the quantity of basic services.
- (6) Interest may be levied on all arrears at a rate prescribed by the authority from time to time.
- (7) The amount due and payable by a consumer constitutes a consolidated debt, and any payment made by a consumer of an amount less than the total amount due, will be allocated in reduction of the consolidated debt in the following order—
  - (a) towards payment of arrears;
  - (b) towards payment of the current account; and
  - (c) towards payment of interest.
- (8) The authority may, within fourteen working days after the expiry of the due date allowed for payment in terms of the final demand notice—
  - (a) limit the provision of water services to the defaulting consumer; and
  - (b) hand deliver or send, per registered mail, to the last recorded address of the consumer, a discontinuation notice informing him or her that the provision of water services will be disconnected within fourteen days of the date of the discontinuation notice; if—
    - (c) no payment was received within the allowed period;

- (d) no agreement was entered into for the payment of arrears in instalments;
  - (e) no proof of registration as indigent was handed in within the fourteen day period allowed; or
  - (f) no payment was received in accordance with an agreement for payment of arrears.
- (9) A discontinuation notice must contain—
- (a) the amount in arrears and any interest payable;
  - (b) a statement that the consumer may conclude an agreement with the authority for payment of the arrears amount in , within fourteen days of the date of the discontinuation notice;
  - (c) that if no such agreement is entered into within the stated period, the authority may discontinue the provision of water services with immediate effect, notwithstanding any legal action instituted or in the process of being instituted against the consumer for the recovery of the arrears amount; and
  - (d) proof of registration, as an indigent consumer, in terms of the authority's indigent policy must be handed in within fourteen days of the date of the discontinuation notice.
- (10) The authority may, within ten working days after the expiry of the fourteen day period allowed for payment in terms of the discontinuation notice, discontinue water services to the defaulting consumer, if—
- (a) no payment was received within the allowed period;
  - (b) no agreement was entered into for the payment of arrears in instalments;
  - (c) no proof of registration as indigent was furnished within the fourteen day period allowed; or
  - (e) no payment was received in accordance with an agreement for payment of arrears.
- (11) Where an account rendered to a consumer remains outstanding for more than sixty days the defaulting consumer may be handed over to a debt collector or an attorney for collection of the amount owing to the authority.
- (12) A consumer will be liable for any administration fees, costs incurred in taking action for the recovery of arrears and any penalties, including the payment of a higher deposit.
- (13) No action taken in terms of this section due to non-payment will be suspended or withdrawn, unless the arrears, any interest thereon, administration fees, additional charges, costs incurred in taking relevant action and any penalties, including the payment of a higher deposit, payable are paid in full.
- (14) The authority will not be liable for any loss or damage suffered by a consumer due to his, her or its water services being disconnected.



- (15) An agreement for payment of the arrears amount in instalments, entered into after the water services was discontinued, will not result in the water services being restored until the arrears, any interest thereon, administration fees, costs incurred in taking relevant action and any penalties, including payment of a higher deposit, payable are paid in full.

#### **Agreement for the payment of arrears in instalments**

- 14: (1) Only a consumer with positive proof of identity or a person authorised, in writing, by that consumer, or, if a consumer is illiterate, a person authorised by such consumer personally in the presence of an officer appointed by the authority for that purpose, will be allowed to enter into an agreement for the payment of arrears in instalments.
- (2) The amount due and payable by a consumer constitutes a consolidated debt, and any payment made by a consumer of an amount less than the total amount due, will be allocated in reduction of the consolidated debt in the following order—
- (a) towards payment of the current account;
  - (b) towards payment of arrears; and
  - (c) towards payment of interest.
- (3) A consumer may be required to complete a debit order for the payment of arrears.
- (4) No agreement for the payment of arrears will be longer than twelve months, unless the circumstances referred to in subsection (5) prevail.
- (5) The authority may, on an individual basis, allow a longer period than twelve months for the payment of arrears if special circumstances prevail, that in the opinion of the authority warrants such an extension and which the consumer reasonably could not prevent or avoid. Documentary proof of any special circumstances must be furnished by the consumer on request by the authority.
- (6) The authority may in exercising his or her discretion under subsection (5) have regard to a consumer's—
- (a) credit record;
  - (b) consumption;
  - (c) level of service;
  - (d) previous breaches of agreements for the payment of arrears in instalments; and
  - (e) any other relevant factors.
- (7) A copy of the agreement will, on request and free of any charge, be made available to the consumer.
- (8) If a consumer fails to comply with an agreement for the payment of arrears in instalments, the total of all outstanding amounts, including the arrears, any interest thereon, administration fees, costs incurred in taking relevant action, and penalties, including payment of a higher deposit, will be immediately due and payable, without further notice or correspondence.

- (9) If a consumer fails to comply with an agreement for the payment of arrears in instalments, entered into after receipt of a discontinuation notice, access to services may be discontinued without further notice or correspondence in addition to any other actions taken against or that may be taken against such a consumer.
- (10) No consumer will be allowed to enter into an agreement for the payment of arrears in instalments, where that consumer failed to honour a previous agreement for the payment of arrears in instalments, entered into after the receipt of a discontinuation notice.

## **PART 6**

### **TERMINATION, LIMITATION AND DISCONTINUATION OF WATER SERVICES**

(See section 1(11))

#### **Termination of agreement for the provision of water services**

15. (1) A consumer may terminate an agreement for the provision of water services by giving to the authority, not less than thirty working days' notice in writing of his or her intention to do so.
- (2) The authority may, by notice in writing of not less than thirty calendar days, advise a consumer of the termination of his or her agreement for the provision of water services if—
  - (a) he or she has not used the water services during the preceding six months and has not made arrangements to the satisfaction of the authority for the continuation of the agreement;
  - (b) he or she has failed to comply with the provisions of these by-laws and has failed to rectify such failure to comply on notice in terms of section (26) or to pay any tariffs or charges due and payable after the procedure set out in section 13 was applied;
  - (c) in terms of an arrangement made by it with another water services institution to provide water services to the consumer.
- (3) The authority, may, after having given notice, terminate an agreement for services if a consumer has vacated the premises to which such agreement relates.

#### **Limitation and or discontinuation of water services provided**

16. (1) The authority may limit or discontinue water services provided in terms of these by-laws—
  - (a) on failure to pay the prescribed tariffs or charges on the date specified, after the provisions of section 13 was applied;
  - (b) on failure to comply with any other provisions of these by-laws, after notice in terms of any provisions of these by-laws in the form required by section 26 was given;
  - (c) at the written request of a consumer;

- (d) if the agreement for the provision of services has been terminated in terms of section 15 and it has not received an application for subsequent services to the premises within a period of ninety days of such termination;
  - (e) the building on the premises to which services were provided has been demolished;
  - (f) if the consumer has interfered with a limited or discontinued service; or
  - (g) in an emergency.
- (2) The extent of the limitation of any water supply in terms of sub-section (1) shall be determined by the authority in accordance with the circumstances prevailing in respect of any particular instance, the requirements of the Act and of any law, regulation or by-law regarding health and hygiene and must be just and equitable in the circumstances.
- (3) The authority will not be liable for any damages or claims that may arise from the limitation or discontinuation of water services provided in terms of subsection (1).

### **Interruption of Supply at Consumer's Request**

17. (1) The authority may, at the written request of a consumer—
- (a) turn off the supply of water to his premises; and
  - (b) reinstate the supply,
- on the dates requested by him.
- (2) The consumer shall prior to the reinstatement of his water supply pay the prescribed charge for the taming-off of his supply of water, and for its reinstatement.

### **Restoration of water services**

18. When a consumer enters into an agreement with an authority for the payment of the arrears amount in instalments after the receipt of a final demand notice or a discontinuation notice the water services will be restored to the type of service the consumer elected in terms of the agreement for the provision of water services, within two working days.

## **PART 7**

### **GENERAL PROVISIONS**

#### **Standard Conditions by Authorised Providers**

19. (1) An authorised provider shall:
- (c) adopt standard conditions for insertion in every agreement entered into by it under sections 6 or 7 for the matters dealt with in Parts 3, 4 and 5 of Chapter 2 which conditions shall apply equally to all consumers receiving water services of the same level and kind;

- (d) lodge a copy of the such standard conditions with the authority for approval prior to imposing them in any agreement under sections 6 and 7;
- (e) not amend, vary or waive such standard conditions without the prior written approval of the authority.

### **Responsibility for compliance with these by-laws**

- 20. (1) The owner of premises is responsible for ensuring compliance with these by-laws in respect of all or any matters relating to any installation.
- (2) The consumer is responsible for compliance with these by-laws in respect of matters relating to the use of any installation.

### **Unauthorised use of water services**

- 21. (1) The authority or an authorised provider may, irrespective of any other action it may take against such person in terms of these by-laws, by written notice order a person who has gained access to water services from the water supply system, sewage disposal system or any other sanitation services without an agreement in terms of sections 6 or 7, with the authority or the authorised provider, for the rendering of those services,
  - (a) to apply for such services in terms of sections 6 or 7; and
  - (b) to undertake such work as may be necessary to ensure that the consumer installation through which access was gained complies with the provisions of these by-laws.
- (2) The provisions of section 26 shall apply to a notice in terms of subsection (1) above.

### **Purpose of water services**

- 22. Where the purpose or extent for which water services are used is changed, the consumer must enter into a new agreement with the authority or an authorised provider.

### **Interference with water supply system or any sanitation services**

- 23. (1) No person other than the authority, or an authorised provider, shall manage, operate or maintain the water supply system or any sanitation system, unless authorised by these by-laws.
- (2) No person other than the authority or an authorised provider shall effect a connection to, or tamper with, the water supply system or sewage disposal system or render any other services.
- (3) For the purpose of this section 23, “tamper”, “tampering” or “tampered with” shall mean wilfully or negligently and in any manner whatsoever, interfering, altering, damaging, removing, replacing, repairing or otherwise intervening with any water supply system or sewage disposal system, including any such system owned or operated by an authorised provider, or permitting or causing any person to wilfully or negligently interfere, alter, damage, remove, replace, repair or other wise intervene with any such system, unless such act is authorised by the provisions of these by-laws or by the written prior consent of the authority or the authorised agent as the case may be.

- (4) Whenever the authority, or the authorised provider, is of the opinion that a water supply system or sewage disposal system is being tampered with, it may:
- (a) forthwith serve a notice, in accordance with the provisions of section 25, on the owner of, or consumer at, the premises being served by the affected water supply system or sewage disposal system notifying such owner or consumer—
    - (i) of the tampering which is alleged to have taken place;
    - (ii) that the water supply system or sewage disposal system will be disconnected and the date on which such disconnection will take place;
    - (iii) the steps required to rectify the tampering;
    - (iv) the date by which such tampering shall have been rectified;
    - (v) the costs which must be paid in order to remedy any damage caused to such system and to re-connect the water supply or sanitation service; and
    - (vi) calling upon such owner or consumer to provide acceptable proof, if available, to the authority, or the authorised provider, that such owner or consumer is not the perpetrator of such tampering within a time stipulated in such notice.
  - (b) simultaneously with the service of the notice contemplated in sub-section (a), or at any time subsequent thereto, in such manner as it may deem appropriate in the circumstances, disconnect the water supply or sanitation service being supplied to such owner or consumer.
- (5) In the event of the owner or consumer:
- (a) producing proof acceptable to the authority or the authorised provider, that he is not the perpetrator of the tampering concerned, or fully complying with the provisions of the notice referred to in sub-section (4)(a), then the water supply or sanitation service shall forthwith be restored if, at the date such proof is provided or such notice is fully complied with, such supply has been disconnected as provided in sub-section (4)(b);
  - (b) failing to comply with any provision of the notice referred to in sub-section (4)(a) within the time stipulated in such notice for such compliance, or such further period as the authority or the authorised provider, has in writing agreed to cancel the agreement contemplated in sections 6 or 7 and discontinue the water supply or sanitation service permanently.
- (6) An owner or consumer whose water supply or sanitation service has been disconnected under the provisions of sub-section 5(b) shall be liable to pay all costs and expenses necessarily and reasonably incurred by the authority or the authorised provider, in about dealing with the tampering, and all such damages as it may have suffered as a consequence of such tampering, and such costs and may be recovered from such owner or consumer by civil action, and no person shall be entitled to receive any water supply or sanitation service from the authority or the authorised provider, unless and until all such costs, expenses and damages shall have been paid, together with any other amount owing by such person under any provision of these by-laws.

## **Obstruction of access to water supply system or any sanitation services**

24. (1) No person shall prevent or restrict physical access to the water supply system or sewage disposal system by the authority or an authorised provider or any person duly authorised by them in writing.
- (2) If a person contravenes subsection (1), the authority or an authorised provider may—
- (a) by written notice require such person to restore access at his or her own expense within a specified period; or
  - (b) if it is of the opinion that the situation is a matter of urgency, without prior notice restore access and recover the cost from such person.

## **Notice and Documents**

25. (1) A notice or document issued by the authority in terms of these by-laws must be deemed to be duly authorised if it is signed by or on behalf of the authority.
- (2) A notice or document issued by an authorised provider in terms of these by-laws must be deemed to be duly authorised if it is signed by or on behalf of the authorised provider.
- (3) If a notice or document is to be served on an owner, consumer or any other person in terms of these by-laws such service shall be effected by—
- (a) delivering it to him or her personally or to his or her duly authorised agent;
  - (b) delivering it at his or her residence, village or place of business or employment to a person apparently over the age of sixteen years of age and apparently residing or employed there;
  - (c) if he or she has nominated an address for legal purposes, delivering it to such an address;
  - (d) if he or she has not nominated an address for legal purposes, delivering it to the address given by him or her in his or her application for the provision of water services, for the reception of an account for the provision of water services;
  - (e) sending by pre-paid registered or certified post addressed to his or her last known address;
  - (f) in the case of a legal person, by delivering it at the registered office or business premises of such legal person; or
  - (g) if service cannot be effected in terms of subsections (a) to (f), by affixing it to a principal door of entry to the premises concerned.
- (4) In the case where compliance with a notice is required within a specified number of working days, such period shall be deemed to commence on the date of delivery or sending of such notice.

## **Power to serve, and compliance with notices**

26. (1) The authority or an authorised provider may, by written notice, order an owner, consumer or any other person who fails, by act or omission, to comply with any provisions of these by-laws or of any condition imposed thereunder to remedy such breach within a period specified in the notice, which period shall not be less than thirty days.
- (2) If a person fails to comply with a written notice served on him or her by the authority or an authorised provider in terms of these by-laws within the specified period, it may take such action that in its opinion is necessary to ensure compliance, including—
  - (a) undertaking the work necessary itself and recovering the cost of such action or work from that owner, consumer or other person;
  - (b) limiting or discontinuing the provision of services; and
  - (c) instituting legal proceedings.
- (3) A notice in terms of subsection (1) will—
  - (a) give details of the provision of the by-laws not complied with;
  - (b) give the owner, consumer or other person a reasonable opportunity to make representations and state his or her case, in writing, to the authority or an authorised provider within a specified period, unless the owner, consumer or other person was given such an opportunity before the notice was issued;
  - (c) specify the steps that the owner, consumer or other person must take to rectify the failure to comply;
  - (d) specify the period within which the owner, consumer or other person must take the steps specified to rectify such failure; and
  - (e) indicate that the authority or an authorised provider—
    - (i) may undertake such work necessary to rectify the failure to comply if the notice is not complied with and that any costs associated with such work may be recovered from the owner, consumer or other person; and
    - (ii) may take any other action it deems necessary to ensure compliance.
- (4) In the event of an emergency the authority or an authorised provider may, without prior notice, undertake the work required by subsection 3(e)(i) and recover the costs from such person.
- (5) The costs recoverable by the authority or an authorised provider in terms of subsections (3) and (4) is the full cost associated with that work and includes, but is not limited to, any exploratory investigation, surveys, plans, specifications, schedules of quantities, supervision, administration charge, the use of tools, the expenditure of labour involved in disturbing or rehabilitation any part of a street or ground affected by the work and the environmental cost.

### **Power of entry and inspection**

27. (1) Any officer of the authority or any authorised provider may enter and inspect any premises—
- (a) for the purposes set out in and in accordance with the provisions of section 80 of the Act; and
  - (b) for any purpose connected with the implementation or enforcement of these by-laws,
- at all reasonable times, after having given written reasonable notice of the intention to do so.
- (2) In the case of any emergency, the authority or any authorised provider may enter and inspect any premises without any notice as required under sub-section (1).

### **False Statements or Information**

28. No person shall make a false statement or furnish false information to the authority or an authorised provider or falsify a document issued in terms of these by-laws.

### **Availability of By-laws**

29. (1) A copy of these by-laws shall be available for inspection at the offices of the authority and of every authorised provider at all reasonable times.
- (2) A copy of the by-laws may be obtained against payment of such reasonable charge as the authority may from time to time prescribe from the authority or any authorised provider.

### **Trespassing on Water Supply System**

30. (1) No person shall, without the prior written permission of the authority or the relevant authorised provider, enter upon an area enclosed by a fence or where entry is prohibited by notice boards, or a structure used by the authority or such relevant authorised provider in connection with the provision of water services.

### **Damage to Water Supply System**

31. (1) No person shall damage or endanger the water supply or sanitation disposal system, or cause or permit it to be damaged or endangered.
- (2) Any person who intends performing work which may cause damage to any water supply or sanitation disposal system on land owned by or vested in the authority or any authorised provider or over which it has a servitude or other right, shall prior to commencement of such work, ascertain from the authority or authorised provider if any part of the water supply or sanitation disposal system is situated on the land.
- (3) If work, which in the opinion of the authority or the relevant authorised provider, could damage or endanger a water supply or sanitation disposal system is to be performed or is being performed on land referred to in subsection (2) or on land adjacent thereto, the authority or relevant authorised provider may by notice in writing require the person



concerned not to commence, or to cease performing, the work until such time as he or she has complied with the conditions specified in such notice.

### **Pollution of Water Supply**

32. (1) Unless such act is specifically authorised in writing by the authority, no person shall commit an act which may cause pollution of any nature to water in a reservoir or other place owned, controlled by or vested in the authority or any authorised provider either in whole or in part, and used by them in connection with the supply of water.
- (2) No person shall, except at such places as are designated by notice boards or in such receptacles as are provided by the authority, discharge rubbish, night-soil, industrial waste or other matter which may cause pollution of any nature on any part of a catchment area relating to the supply of water by the authority or any authorised provider.
- (3) If a person contravenes subsection (1) or (2) the authority or any relevant authorised provider may:
- (a) by notice in writing require the person immediately to cease such act and take specified action within a specified period; or
  - (b) if it is of the opinion that the situation is a matter of urgency, without prior notice take such action as it may deem necessary and recover the cost from the person.

### **Liabilities and Compensation**

33. The authority shall not be liable for damages or compensation arising from anything done in good faith by it, or any person acting on its behalf and being duly authorised thereto, in terms of these by-laws.

### **Offences and Penalties**

34. (1) A person who—
- (a) fails or refuses to give access required by an officer of the authority or an authorised provider in terms of section 24;
  - (b) obstructs or hinders an officer of the authority or an authorised provider in the exercise of his or her powers or performance of his or her functions or duties under these by-laws;
  - (c) contravenes or fails to comply with a provision of these by-laws;
  - (d) contravenes or fails to comply with any notice, condition or prohibition imposed in terms of these by-laws;
  - (e) contravenes or fails to comply with any conditions imposed upon the granting of any application, consent, approval, concession, exemption or authority in terms of these by-laws;
  - (f) fails to comply with the terms of a notice served upon him or her in terms of these by-laws; or

- (g) draws water from a fire hydrant save in circumstances contemplated in Section 42, provided that this sub-section shall not apply to any person in the bona fide employ of the authority or an authorised provider in and about fire fighting or other emergency services;

shall be guilty of an offence and liable on conviction to a fine not exceeding R4000,00 or in default on payment, to imprisonment for a period not exceeding 6 months and in the event of a continued offence to a further fine not exceeding R2000,00 for every day during the continuance of such offence after a written notice from the authority or an authorised provider has been issued and in the event of a second offence to a fine not exceeding R6000,00 or, in default on payment to imprisonment for a period not exceeding 12 months.

(2) An authorised provider who:

- (a) renders any account, seeks to recover any amount, accepts payment of any amount in respect of any tariff, levy, charge 'or rate for water services provided by such authorised provider which is not ratified by the authority in terms of section 4(1) of these by-laws;
- (b) fails or refuses to give access required by an officer of the authority in terms of section 24;
- (c) obstructs or hinders any officer of the authority in the exercise of his or her powers or performance of his or her functions or duties under these by-laws;
- (d) contravenes or fails to comply with a provision of these by-laws;
- (e) contravenes or fails to comply with a condition or prohibition imposed in terms of these by-laws;
- (f) contravenes or fails to comply with any conditions imposed upon the granting of any application, consent, approval, concession, exemption or authority in terms of these by-laws; or
- (g) fails to comply with the terms of a notice served upon him or her in terms of these by-laws;

shall be guilty of an offence and liable on conviction to a fine not exceeding R50000,00 or in default on payment, to imprisonment for a period not exceeding 6 months and in the event of a continued offence to a further fine not exceeding R10000,00 for every day during the continuance of such offence after a written notice from the authority has been issued and in the event of a second offence to a fine not exceeding R75000,00 or, in default on payment to imprisonment for a period not exceeding 12 months.

- (3) In addition to any penalty imposed under sub-section (2), the authority may revoke any approval or registration of such authorised provider under sections 104(1) (a) or (b), 109(1) or 111(1) (as the case may be).
- (4) An officer who is negligent in the execution of his or her duties provided for in sections 12(3) and 13(3), or who discloses any information given to him by a consumer that he or she is assisting as contemplated in those sections without the consent of such consumer shall be guilty of an offence and liable on conviction for the fines and imprisonment provided in subsection (1) hereof.

- (5) Notwithstanding the definitions of the words ‘owner’, ‘occupier’, ‘consumer’ or ‘person’ contained in section 1(1) of these by-laws, the said words shall, in addition to the meanings assigned to them in the said section 1(1) and for the purposes of enforcing the penalties provided for in these by-laws, include, in the case of:
- (a) a firm or partnership, all or any one or more of the members of such firm or partnership, and, in the case of:
  - (b) a company, close corporation, co-operative, communal property association or other juristic person other than a firm or partnership in the ordinary meaning of those terms, the directors, managers or members of any managing body of such company, close corporation, co-operative, communal property association or other juristic person, and, in the case of:
  - (c) a trust, the individual trustees thereof in their personal capacities.

### **Arbitration**

35. (1) Whenever in these by-laws any issue in dispute is to be referred to arbitration then the provisions of sub-sections (a) to (k) of this sub-section (1) shall apply.
- (a) A party wishing to refer any dispute to arbitration shall serve written notice on every other party with a direct interest in such dispute and in such notice it shall specify the nature of the dispute and the names of at least two persons who such party suggests should be appointed to arbitrate such dispute.
  - (b) Any party to whom a notice referred to in sub-section (a) is delivered may, within 14 days of the receipt of such notice, give the party who sent such notice a written reply stating which, if any, of the persons nominated as arbitrators it is willing to appoint.
  - (c) If a party to whom a notice referred to in sub-section (1) is delivered does not provide a reply as contemplated in sub-section (b), then such party shall be deemed to have agreed to the appointment of one of the arbitrators referred to in the notice referred to in sub-section (1), the actual arbitrator to be decided on by the party giving such notice.
  - (d) If the party to whom a notice referred to in sub-section (1) is delivered rejects the arbitrators nominated in such notice, then the party giving such notice shall refer the appointment of an arbitrator to the President of the Natal Law Society with a request that he or she appoint an arbitrator and such appointment shall be final and binding.
  - (e) Arbitration shall be conducted in accordance with the provisions of the Arbitration Act, No 42 of 1965, subject to the provisions of these by-laws and the Act.
  - (f) The issue which the arbitrator shall be asked to decide will be determined by the party referring the dispute to arbitration.
  - (g) The arbitrator shall have the power to decide on the procedure he/she shall adopt in the conduct of any arbitration proceedings.

- (h) The parties to any dispute may elect to have legal representation at any hearing before any arbitrator.
- (i) Each party shall bear its own costs of the arbitration proceedings, including the costs of legal representation.
- (j) Each party shall bear an equal share of the costs of the arbitrator and any costs associated with such appointment, the party first referring any dispute to arbitration under the provisions of this section being responsible for the collection and payment of such costs; provided that in the event of the arbitrator being of the opinion that any party to the conflict has acted in bad faith, maliciously or frivolously, or in the event of any party liable to contribute towards any costs in terms hereof failing or refusing to pay such costs within a reasonable period of demand being made therefore, then such arbitrator may direct that such party shall refund to any other party the reasonable costs of such arbitration or any part thereof, or pay such contribution, and such award shall constitute a liquid debt due by the party against whom it is made in favour of the other parties to this agreement.
- (k) Any decision of an arbitrator shall be binding on the parties to the dispute and shall not be made the subject of any legal proceedings by any such party.

### **CHAPTER 3**

#### **WATER SUPPLY SERVICES**

##### **PART 1**

#### **CONNECTION TO WATER SUPPLY SYSTEM**

##### **Provision of connection pipe**

- 36. (1) If an agreement for water supply services in respect of premises has been concluded and no connection pipe exists in respect of the premises, the owner shall make application to the authority or relevant authorised provider as the case may be on the prescribed form and pay the prescribed charge for the installation of such a pipe.
- (2) If an application is made for water supply services which are of such an extent or so situated that it is necessary to extend, modify or upgrade the water supply system in order to supply water to the premises, the authority or an authorised provider may agree to the extension subject to such conditions as it may impose.

##### **Location of connection pipe**

- 37. (1) A connection pipe provided and installed by the authority or an authorised provider shall—
  - (a) be located in a position agreed to between the owner and the authority or the authorised provider, and be of a suitable size as determined by the authority or the authorised provider;
  - (b) terminate at—

- (i) the boundary of the land owned by or vested in the authority or the authorised provider, or over which it has a servitude or other right; or
  - (ii) at the outlet of the water meter if it is situated on the premises; or
  - (iii) at the isolating valve if it is situated on the premises.
- (2) In reaching agreement with an owner concerning the location of a connection pipe, the authority or the authorised provider, shall ensure that the owner is aware of—
  - (a) practical restrictions that may exist regarding the location of a connection pipe;
  - (b) the cost implications of the various possible locations of the connection pipe;
  - (c) whether or not the authority or the authorised provider, requires the owner to indicate the location of the connection pipe by providing a portion of his or her water installation at or outside the boundary of his or her premises, or such agreed position inside or outside his or her premises where the connection is required, for the authority or the authorised provider, to connect to such installation.
- (3) An authority or the authorised provider, may at the request of any person agree, subject to such conditions as he or she may impose, to a connection to a main other than that which is most readily available for the provision of water supply to the premises; provided that the applicant shall be responsible for any extension of the water installation to the connecting point designated by the authority or the authorised provider, and for obtaining at his or her cost, such servitudes over other premises as may be necessary.
- (4) An owner must pay the prescribed connection charge.

#### **Provision of single water connection for supply to several consumers on same premises**

38. (1) Notwithstanding the provisions of section 37 only one connection pipe to the water supply system may be provided for the supply of water to any premises, irrespective of the number of consumer unit, business units or consumers located on such premises.
- (2) Where the owner, or the person having the charge or management of any premises on which several consumer unit are situated, requires the supply of water to such premises for the purpose of supply to the different consumer unit, the authority or the authorised provider, may, in its discretion, provide and install either—
    - (a) a single measuring device in respect of the premises as a whole or any number of such consumer units; or
    - (b) a separate measuring device for each consumer unit or any number thereof.
  - (3) Where the authority or the authorised provider, has installed a single measuring device as contemplated in subsection (2) (a), the owner or the person having the charge or management of the premises—
    - (a) must if the authority or the authorised provider, so requires, install and maintain on each branch pipe extending from the connection pipe to the different consumer unit—

- (i) a separate measuring device; and
  - (ii) an isolating valve; and
- (b) will be liable to the authority or the authorised provider, for the tariffs and charges for all water supplied to the premises through such a single measuring device, irrespective of the different quantities consumed by the different consumers served by such measuring device.
- (4) Notwithstanding subsection (1), the authority or the authorised provider, may authorise that more than one connection pipe be provided on the water supply system for the supply of water to any premises comprising sectional title units or if, in the opinion of the authority or the authorised provider, undue hardship or inconvenience would be caused to any consumer on such premises by the provision of only one connection pipe.
- (5) Where the provision of more than one connection pipe is authorised by the authority or the authorised provider, under subsection (4), the tariffs and charges for the provision of a connection pipe is payable in respect of each water connection so provided.

### **Interconnection between premises or water installations**

39. An owner of premises shall ensure that no interconnection exists between—
- (a) the water installation on his or her premises and the water installation on other premises; or
  - (b) where several consumer unit are situated on the same premises, the water installations of the consumer unit units; or

unless he or she has obtained the prior written consent of the authority or the authorised provider, and complies with any conditions that it may have imposed.

### **Disconnection of water installation from connection pipe**

40. The authority or the authorised provider, may disconnect a water installation from the connection pipe and remove the connection pipe if—
- (a) the agreement for supply has been terminated in terms of section 15 audit has not received an application for a subsequent supply of water to the premises served by the pipe within a period of 90 days of such termination; or
  - (b) any consumer unit has been demolished.
  - (c) any illegal interference with any water supply system, sewage disposal system or water installation has occurred

## **PART 2 COMMUNAL WATER SERVICES NETWORKS**

### **Provision of a water services work for water supply to several consumers**

41. An authority or the authorised provider, may install a communal water services work for the provision of water services to several consumers at a location it deems appropriate, provided

that the consumers whom water services will be provided through that water services work have been consulted in respect of the level of service, the tariff that will be payable and location of the work.

### **PART 3 TEMPORARY SUPPLY**

#### **Water supplied from a hydrant**

42. (1) The authority or the authorised provider may authorise a temporary supply of water to be taken from one or more fire hydrants specified by it, or from such other source identified for that purpose by the authority or the authorised provider, subject to such conditions and period, which shall not exceed three months, as may be prescribed by it.
- (2) The authority or the authorised provider, may convey any water required as a temporary measure by tanker to any place where such temporary supply of water is required, subject to such conditions and period, which shall not exceed three months, as may be prescribed by it.
- (3) A person who desires a temporary supply of water referred to in subsection (1) must apply for such water services in terms of section 4.
- (4) The supply of water in terms of subsection (1) must be measured and the quantity of water drawn shall be reported in writing to the authority or the authorised provider as the case may be within 14 days of the date on which such water is drawn.
- (5) The authority or the authorised provider, may for purposes of measuring provide a portable water meter to be to the authority or the authorised provider, on termination of the temporary supply, which portable meter and all other fittings and apparatus used for the connection of the portable water meter to a hydrant, shall remain the property of the authority or the authorised provider, and will be provided subject any conditions imposed by the authority or the authorised provider.
- (6) Any person authorised to receive a temporary supply of water shall pay therefore in accordance with the tariff or charge determined by the authority.
- (7) Where water is drawn from a fire hydrant in any emergency, including the fighting of fire, the person so drawing water shall within 24 hours, notify the authority or the authorised provider, of such activity, the purpose for which the water was drawn, the nature, cause and duration of the emergency and shall specify the time during which such water was so drawn.
- (8) The onus of establishing that water was drawn from a fire hydrant as provided in subsection (7) shall vest in the person drawing such water, and such person shall be liable for the cost of such water in accordance with the applicable tariff.

**PART 4**  
**STANDARDS AND GENERAL CONDITIONS OF SUPPLY**

**Quantity, quality and pressure**

43. Water supply services provided by the authority or the authorised provider, will comply with the minimum standards set for the provision of water supply services in terms of section 9 of the Act.

**General conditions of supply**

44. (1) The authority or the authorised provider, may specify the maximum height to which water will be supplied from the water supply system. Where a consumer requires water to be supplied at a greater height or pressure the consumer will be responsible therefore.
- (2) The authority or the authorised provider, may, in an emergency, interrupt the supply of water to any premises without prior notice.
- (3) If in the opinion of the authority or the authorised provider, the consumption of water by a consumer adversely affects the supply of water to another consumer, it may apply such restrictions as it may deem fit to the supply of water to the first mentioned consumer in order to ensure a reasonable supply of water to the other consumer and will inform that consumer of such restrictions.
- (4) The authority or an authorised provider may, where, in its opinion, a consumer, in respect of any premises or any consumer unit, consistently and continuously consumes water in excess of 5 kilolitres per day, serve written notice on such consumer that the provisions of sub-sections (5) to (7) shall apply to such consumer.
- (5) A consumer on whom a notice in terms of sub-section (4) has been served shall, within 30 days of the date of the service of such notice, install a cistern capable of holding not less than one half of the average daily consumption of water consumed by such consumer on the premises or consumer unit concerned, which cistern shall be installed at a point on the water installation of such consumer on such premises or which supplies the particular consumer unit approved by the authority or authorised provider concerned, and such consumer shall and for as long as the authority or authorised provider concerned requires such cistern to be so installed, maintain such cistern in good working and watertight order.
- (6) Such cistern shall:
- (a) be provided with a float control valve, of a size and quality approved by the authority or authorised provider concerned, at the point where water enters the cistern for the purpose of controlling the supply of water into such cistern; and
- (b) be provided with an outlet pipe of sufficient diameter to enable water to flow out of the cistern into the water installation freely and consistent with the requirements of the water installation.
- (7) For the purposes of subsection (4):
- (a) water shall be deemed to be consistently and continuously consumed if, in respect of the particular premises or consumer unit, the average consumption of water,



measured as provided in these by-laws, determined over a period of six consecutive months, equals 5 kilo-litres per day or more; and

- (b) the average daily consumption shall be calculated on the basis of actual consumption recorded, in respect of the particular premises or consumer unit, during the preceding twelve-month period, or if such consumer shall have consumed water for a lesser period, then the daily average shall be calculated based on the number of days comprising such lesser period.

## **PART 5 MEASUREMENT OF WATER SUPPLY SERVICES**

### **Measuring of quantity of water supplied**

- 45. (1) The authority or the authorised provider, will measure the quantity of water supplied at regular intervals.
- (2) Any measuring device through which water is supplied to a consumer by the authority or the authorised provider, and the associated apparatus shall be provided and installed by the authority or the authorised provider, shall remain the property, and may be changed and maintained by the authority or the authorised provider, when deemed necessary by it.
- (3) The authority or the authorised provider may install a measuring device, and the associated apparatus, on premises at any point on the service pipe.
- (4) If the authority or the authorised provider, installs a measuring device on a service pipe in terms of subsection (3), it may install a section of pipe and associated between the end of the connection pipe and the meter, and such section shall be deemed to form part of the water supply system.
- (5) If the authority or the authorised provider, installs a measuring device together with its associated apparatus on a service pipe in terms of subsection (3), the owner shall—
  - (a) provide a place satisfactory to the authority or the authorised provider, in which to install it;
  - (b) ensure that unrestricted access is available to it at all times;
  - (c) be responsible for its protection and be liable for the costs arising from damage thereto, excluding damage arising from normal fair wear and tear;
  - (d) ensure that no connection is made to the pipe in which the measuring device is installed, between the measuring device and the connection pipe serving the installation; and
  - (e) make provision for the drainage of water which may be discharged, from the pipe in which the measuring device is installed, in the course of work done by the authority or the authorised provider, on the measuring device.
- (6) No person other than die authority or an authorised provider shall—

- (a) disconnect a measuring device and its associated apparatus from the pipe in which they are installed;
  - (b) break a seal which the authority or the authorised provider, has placed on a meter; or
  - (c) in any other way interfere with a measuring device and its associated apparatus.
- (7) If the authority or the authorised provider considers that, in the event of the measuring device being a meter that the size of a meter is unsuitable by reason of the quantity of water supplied to premises, it may install a meter of such size as it may deem necessary, and may recover from the owner of the premises concerned the prescribed charge for the installation of the meter.
- (8) The authority or the authorised provider may require the installation, at the owner's expense, of a measuring device to each dwelling unit, in separate occupancy, on any premises, for use in determining quantity of water supplied to each such unit; provided that where fixed quantity water delivery systems are used, a single measuring device may be used to supply more than one unit.

### **Quantity of water supplied to consumer**

46. (1) For purposes of assessing the quantity of water measured by a measuring device installed by the authority or the authorised provider, on the premises of a consumer or, where applicable, estimated or determined by the authority or the authorised provider, in terms of any provision of these by-laws, it will, for the purposes of these by-laws, be deemed, unless the contrary can be proved, that—
- (a) the quantity is represented by the difference between measurements taken at the beginning and end of such period;
  - (b) the measuring device was accurate during such period; and
  - (c) the entries in the records of the authority or the authorised provider, were correctly made;

provided that if water is supplied to, or taken by, a consumer without its passing through a measuring device, the estimate by the authority or the authorised provider, of the quantity of such water shall be deemed to be correct.

### **Estimate of Quantity**

47. (1) Where water supplied by the authority or the authorised provider, to any premises is in any way taken by the consumer without such water passing through any measuring device provided by the authority or the authorised provider, the authority or the authorised provider, may for the purpose of rendering an account estimate, in accordance with subsection (3), the quantity of water supplied to the consumer during the period from the last previous reading of the water-meter until the date it is discovered that water is so taken by the consumer.
- (2) For the purposes of subsection (1) an estimate of the quantity of water supplied to a consumer shall be based on the following provisions, as the authority or the authorised provider, may decide—

- (a) the average monthly consumption of water on the premises during any three consecutive measuring periods during the twelve months' period prior to the date on which the taking of water in the manner mentioned in subsection (1) was discovered; or
  - (b) the average monthly consumption on the premises registered over three succeeding measuring periods after the date referred to in subsection (2)(a).
- (3) Nothing in these regulations shall be construed as imposing on the authority or the authorised provider, an obligation to cause any measuring device installed by the authority or the authorised provider, on any premises to be measured at the end of every month or any other fixed period, and the authority or the authorised provider, may estimate the quantity of water supplied over any period during the interval between successive measurements of the measuring device and render an account to a consumer for the quantity of water so estimated.
  - (4) The Authority or the authorised provider must, on receipt from the consumer of written notice of not less than seven days and subject to payment of the prescribed charge, measure the quantity of water supplied to consumer at a time or on a day other than that upon which it would normally be measured.
  - (5) If a contravention of subsection 45(6) occurs, the consumer shall pay to the authority or the authorised provider, the cost of such quantity of water as in the authority or the authorised provider's opinion was supplied to him or her.
  - (6) Until such time as a measuring device has been installed in respect of water supplied to a consumer, the estimated or assumed consumption of that consumer must be based on the average consumption of water supplied to the specific zone within which the consumer's premise is situated, during a specific period.
  - (7) Where in the opinion of the authority or the authorised provider, it is not reasonably possible or cost effective to measure water supplied to each consumer within a determined zone, the authority or the authorised provider may determine a basic tariff or charge to be paid by each consumer within that zone irrespective of actual consumption.
  - (8) A tariff or charge determined in terms of subsection (7) will be based on the estimated average consumption of water supplied to that zone.
  - (9) Where water supply services are provided through a communal water services work the amount due and payable by consumers gaining access to water supply services through that communal water services work, must be based on the estimated average consumption of water supplied to that water services work.

### **Defective measurement**

- 48. (1) If a consumer has reason to believe that a measuring device, used for measuring water, which was supplied to him or her by the authority or the authorised provider, is defective he or she may make application in writing for the measuring device to be tested against payment of the prescribed charge.
- (2) The provisions of Sections 12(9) to 12(13) will apply to such an application.

### **Special measurement**

49. (1) If the authority or the authorised provider, wishes, for purposes other than charging for water consumed, to ascertain the quantity of water which is used in a part of a water installation, it may by written notice advise the owner of its intention to install a measuring device at such point in the water installation as it may specify.
- (2) The installation of a measuring device referred to in subsection (1), its removal, and the restoration of the water installation after such removal shall be carried out at the expense of the authorised provider.
- (3) The provisions of sections 45(5) and 45(6) shall apply insofar as they may be applicable in respect of a measuring device installed in terms of subsection (1).

### **No reduction of amount payable for water wasted**

50. A consumer shall not be entitled to a reduction of the amount payable for water wasted or water losses in a water installation.

### **Adjustment of quantity of water supplied through defective measuring device**

51. (1) If a measuring device is found to be defective in terms of section 12(13), the authority or the authorised provider, may estimate the quantity of water supplied to the consumer concerned during the period in which, in its opinion, such measuring device was defective, on the basis of the average daily quantity of water supplied to him or her over—
- (a) a period between two successive measurements subsequent to the replacement of the measuring device; or
- (b) a period in the previous year corresponding to the period in which the measuring device was defective; or
- (c) the period between three successive measurements prior to the measuring device becoming defective, whichever it considers the most appropriate.
- (2) If the quantity of water supplied to a consumer during the period when his or her measuring device was defective cannot be estimated in terms of subsection (1), the authority or the authorised provider, may estimate the quantity on any basis that is available to it.

## **PART 6 INSTALLATION WORK**

### **Approval of installation work**

52. (1) If an owner wishes to have installation work done, he or she must first obtain the authority or the authorised provider's written approval; provided that approval shall not be required in the case of water installations in dwelling units or installations where no fire installation is required in terms of SABS Code 0400 or for the repair or replacement of an existing pipe or water fitting other than a fixed flier hear and its associated protective devices.

- (2) Application for the approval referred to in subsection (1) shall be made on the prescribed form and shall be accompanied by—
  - (a) the prescribed charge, if applicable; and
  - (b) copies of the drawings as prescribed by the authority or the authorised provider, giving information in the form required by Clause 4.1.1 of SABS Code 0252: Part I;
  - (c) a certificate certifying that the installation has been designed in accordance with SABS Code 0252 : Part I or has been designed on a rational basis.
- (3) The provisions of subsections (1) and (2) shall not apply to a qualified plumber who replaces a fixed water heater or its associated protective devices.
- (4) Authority given in terms of subsection (1) shall lapse at the expiry of a period of twenty-four months after the first day of the month succeeding the month in which the authority is given.
- (5) A complete set of approved drawings of installation work shall be available at the site of the work at all times until such work has been completed, where approval was required in terms of subsection (1).
- (6) If installation work has been done in contravention of subsection (1) or (2), the authority or the authorised provider, may by written notice require the owner of the premises concerned to—
  - (a) comply with that regulation within a specified period;
  - (b) if work is in progress, to cease the work; and
  - (c) to remove all such work which does not comply with these by-laws.

### **Provision and maintenance of water installations**

53. (1) An owner must provide and maintain his or her water installation at his or her own cost and, unless permitted in terms of section (54), must ensure that the installation is situated within the boundary of his or her premises.
- (2) Before doing work in connection with the maintenance of a portion of his or her water installation which is situated outside the boundary of his premises, an owner shall obtain the written consent of the authority or the authorised provider, or the owner of the land on which such portion is situated, as the case may be.

### **Use of pipes and water fittings to be authorised**

54. (1) No person shall, without the prior written authority of the authority or the authorised provider, install or use a pipe or water fitting in a water installation within the authority or the authorised provider's area of jurisdiction, unless it is included in the Schedule of Approved Pipes and Fittings as compiled by the authority or the authorised provider.
- (2) Application for the inclusion of a pipe or water fitting in the Schedule referred to in subsection (1) must be made on the form prescribed by the authority or the authorised provider, and be accompanied by the prescribed charge.

- (3) A pipe or water fitting may be included in the Schedule referred to in subsection (1) if—
  - (a) it bears the standardisation mark of the South African Bureau of Standards in respect of the relevant SABS specification issued by the Bureau; or
  - (b) it bears a certification mark issued by the SABS to certify that the pipe or water fitting complies with an SABS Mark specification or a provisional specification issued by the SABS, provided that no certification marks shall be issued for a period exceeding two years.
- (4) The authority or the authorised provider, may, in respect of any pipe or water fitting included in the Schedule, impose such additional conditions, as it may deem necessary in respect of the use or method of installation thereof.
- (5) A pipe or water fitting shall be removed from the Schedule if it—
  - (a) no longer complies with the criteria upon which the inclusion was based; or
  - (b) is no longer suitable for the purpose for which its use was accepted.
- (6) The current schedule shall be available for inspection at the office of the authority or the authorised provider, at any time during working hours.
- (7) The authority or the authorised provider may sell copies of the current schedule at the prescribed charge.

### **Labelling of terminal water fittings and appliances**

55. All terminal water fittings and appliances using or discharging water shall be marked, or have included within the packaging of the item, the following information:
- (a) the range of pressure in kPa over which the water fitting or appliance is designed to operate;
  - (b) the flow rates, in litres per minute, related to the design pressure range, provided that this information shall be given for at least the following water pressures—
    - (i) 20 kPa
    - (ii) 100 kPa
    - (iii) 400 kPa

## **PART 7 WATER POLLUTION, RESTRICTION AND WASTEFUL USE OF WATER**

### **Owner to prevent pollution of water and Interconnection of water services**

56. (1) An owner shall provide and maintain measures, approved by the authority, to prevent the entry of a substance, which may be a danger to health or adversely affect the potability of water or affect its fitness for use, into—
- (a) the water supply system; and

- (b) any part of the water installation on his or her premises.
- (2) An owner shall not inter-connect any water supply system, water installation or sewage disposal system supplied from different sources unless the consent of the authority or authorised provider is first obtained.

### **Water restrictions**

57. (1) The Authority or the authorised provider may by public notice to prevent the wasteful use of water in terms of section (58) or in the event of a water shortage, drought or flood—
- (a) prohibit or restrict the consumption of water in the whole or part of its area of jurisdiction in general or for—
    - (i) specified purposes;
    - (ii) during specified hours of the day or on specified days; and
    - (iii) in a specified manner; and
  - (b) determine and impose—
    - (i) limits on the quantity of water that may be consumed over a specified period;
    - (ii) charges additional to those prescribed in respect of the supply of water in excess of a limit contemplated in subsection (1)(b)(i); and
    - (iii) a general surcharge on the prescribed charges in respect of the supply of water; and
  - (c) impose restrictions or prohibitions on the use or manner of use or disposition of an appliance by means of which water is used or consumed, or on the connection of such appliances to the water installation.
- (2) The authority or the authorised provider may limit the application of the provisions of a notice contemplated by subsection (1) to specified areas and categories of consumers, premises and activities, and may permit deviations and exemptions from, and the relaxation of, any of the provisions on reasonable grounds.
- (3) The authority or the authorised provider, may—
- (a) take, or by written notice require a consumer at his or her own expense to take, such measures, including the installation of measurement devices and devices for restricting the flow of water, as may in its opinion be necessary to ensure compliance with a notice published in terms of subsection (1); or
  - (b) discontinue or, for such period as it may deem fit, limit the supply of water to any premises in the event of a contravention on such premises or failure to comply with the terms of a notice published in terms of subsection (1), subject to notice in terms of section 26; and

- (c) where the supply has been discontinued, it shall only be restored when the prescribed charge for discontinuation and reconnecting the supply has been paid.
- (4) The provisions of this section shall also apply in respect of water supplied directly by the authority or the authorised provider, to consumers outside its area of jurisdiction, notwithstanding anything to the contrary in the conditions governing such supply, unless otherwise specified in the notice published in terms of subsection (1).

### **Waste of water unlawful**

58. (1) No consumer shall permit—
- (a) the purposeless or wasteful discharge of water from terminal water fittings;
  - (b) pipes, cisterns or water fittings to leak;
  - (c) the use of maladjusted or defective water fittings;
  - (d) an overflow of water to persist;
  - (e) any part of any water installation, including any cistern, to rust, rot or otherwise deteriorate, or
  - (f) an inefficient use of water to persist.
- (2) An owner shall repair or replace any part of his or her water installation which is in such a state of disrepair that it is either causing or is likely to cause an occurrence listed in subsection (1).
  - (3) If an owner fails to take measures as contemplated in subsection (2), the authority or the authorised provider, shall, by written notice in terms of section 26, require the owner to comply with the provisions of subsection (1).
  - (4) A consumer shall ensure that any equipment or plant connected to his or her water installation uses water in an efficient manner.
  - (6) The authority or the authorised provider, may, by written notice, prohibit the use by a consumer of any equipment in a water installation if, in its opinion, its use of water is inefficient. Such equipment shall not be returned to use until its efficiency has been restored and a written application to do so has been approved by the authority or the authorised provider,
  - (7) In cases where wastage of water is taking place on any premises, the authority or the authorised provider, shall have the right to enter upon such premises immediately and to take such steps as may reasonably be necessary to remove or renew the defective fitting or other wise to stop such waste, and it may recover the costs thereof from the owner or consumer.
  - (8) Where water has run to waste due to a defect in any water installation and the authority or the authorised provider is satisfied that such defect could not, with the exercise of reasonable care and diligence, be detected by the owner or consumer, the quantity of water to be paid for by the owner or consumer, during the period when such defect occurred, shall be calculated on a basis determined by the authority or the authorised provider, as the case may be.



## **PART 8 WATER AUDIT**

### **Water Audit**

59. (1) Water users using more than 3 650 kℓ per annum, excluding those comprising multiple dwelling units, must within one month after the end of each financial year of the authority or the authorised provider, undertake an annual water audit at their own cost.
- (2) A copy of the audit must be available for inspection by officials from the Department of Water Affairs and Forestry, the water board, if applicable, and the authority or the authorised provider.
- (3) The audit must contain details in respect of—
- (a) the amount of water used during the financial year;
  - (b) the amount paid for water for the financial year;
  - (c) the number of people living on the stand or premises;
  - (d) the number of people permanently working on the stand or premises;
  - (e) the seasonal variation in demand through monthly consumption figures;
  - (f) the water pollution monitoring methods;
  - (g) the plans to manage their demand for water;
  - (h) estimates of consumption by various components of use; and comparison of the above factors with those reported in each of the previous three years, where available.

## **PART 9 GENERAL PROVISIONS**

### **Notification of boreholes**

60. (1) The Authority or the authorised provider may, by public notice, require—
- (a) the owner of any premises within the area of jurisdiction of the authority or the authorised provider, upon which a borehole exists or, if the owner is not in occupation of such premises, the occupier thereof, to notify it on the prescribed form of the existence of a borehole on such premises, and provide it with such information in respect thereof as it may require; and
  - (b) the owner or occupier of any premises who intends to sink a borehole on such premises to notify it on the prescribed form of such intention before work in connection therewith is commenced.

- (2) The authority or the authorised provider, may require the owner or occupier of any premises who intends to sink a borehole to undertake an environmental impact assessment for such intended borehole, to the satisfaction of the Authority or the authorised provider, before sinking the borehole.
- (3) Boreholes are subject to any requirements of the National Water Act, Act No 136 of 1998.
- (4) The authority or the authorised provider, may by notice to a owner or occupier or by public notice require owners and occupiers who have existing boreholes used for water services to—
  - (a) obtain approval from it for the use of the borehole for water services in accordance with sections 6, 7 or 22 of the Act;
  - (b) impose conditions in respect of the use of the borehole for water services; and
  - (c) may impose a fixed charge in respect of the use of such borehole.

### **Sampling of water**

61. (1) The authority or the authorised provider, may take samples of water obtained from a source, authorised in terms of sections 6 or 7 of the Act, other than the water supply system for domestic purposes and cause the samples to be tested for compliance with any national standards prescribed in terms of section 9 of the Act.
- (2) The prescribed charge for the taking and testing of the samples referred to in subsection (1) shall be paid by the person to whom approval to use the water for potable water was granted in terms of section 6(1) or 7(1) of the Act.

### **Supply of non-potable water by authority or the authorised provider**

62. (1) The authority or the authorised provider, may, on application in terms of section (4), agree to supply non-potable water to a consumer, subject to such terms and conditions as the Authority or the authorised provider, may impose.
- (2) Any supply of water agreed to in terms of subsection (1) shall not be used for domestic or any other purposes, which, in the opinion of the authority or the authorised provider may give rise to a health risk.
- (3) No warranty, expressed or implied, shall apply to the purity of any non-potable water supplied by the authority or the authorised provider, or its suitability for the purpose for which the supply was granted.
- (4) The supply of non-potable water shall, both as to condition and use, be entirely at the risk of the consumer, who shall be liable for any consequential damage or loss arising to himself, herself or others arising directly or indirectly therefrom, including the consequences of any bona fide fault of the authority or the authorised provider, or the malfunction of a treatment plant.

### **Testing of pressure in water supply systems**

63. The authority or the authorised provider, may, on application by an owner and on payment of the prescribed charge, determine and furnish the owner with the value of the pressure in the water supply system relating to his or her premises over such period as the owner may request.

### **Pipes in streets or public places**

64. No person shall for the purpose of conveying water derived from whatever source, lay or construct a pipe or associated component on, in or under a street, public place or other land owned by, vested in, or under the control of any authority or the authorised provider, except with the prior written permission of that authority or the authorised provider, and subject to such conditions as it may impose.

## **CHAPTER 4**

### **SANITATION SERVICES**

#### **PART 1 STANDARDS AND GENERAL PROVISIONS**

#### **Standards for sanitation services**

65. Sanitation services provided by the authority or the authorised provider will comply with the minimum standards set for the provision of sanitation services in terms of the section 9 of the Act.

#### **Objectionable discharge to sewage disposal system**

66. (1) No person shall discharge, or permit the discharge or entry into the sewage disposal system of any sewage or other substance—
- (a) which does not comply with the standards and criteria prescribed in sections 81, 82 and 84 below;
  - (b) which contains any substance in such concentration as will produce or be likely to produce in the effluent for discharge at any sewage treatment plant or sea outfall discharge point or in any public water any offensive, or otherwise undesirable taste, colour, odour, temperature or any foam;
  - (c) which may prejudice the re-use of treated sewage or adversely affect any of the processes whereby sewage is purified for re-use, or treated to produce sludge for disposal;
  - (d) which contains any substance or thing of whatsoever nature which is not amenable to treatment to a satisfactory degree at a sewage treatment plant or which causes or is likely to cause a breakdown or inhibition of the processes in use at such plant;
  - (e) which contains any substance or thing of whatsoever nature which is of such strength, or which is amenable to treatment only to a degree as will result in effluent from the sewage treatment plant or discharge from any sea outfalls not

complying with standards prescribed under the National Water Act, Act No. 36 of 1998;

- (f) which may cause danger to the health or safety of any person or may be injurious to the structure or materials of the sewage disposal system or may prejudice the use of any ground used by the authority or the authorised provider for the sewage disposal system, other than in compliance with the permissions issued in terms of these by-laws; and
  - (g) which may inhibit the unrestricted conveyance of sewage through the sewage disposal system.
- (2) No person shall cause or permit any stormwater to enter the sewage disposal system.
  - (3) The authority may, by written notice, order the owner or occupier to conduct, at his or her cost, periodic expert inspections of the premises in order to identify precautionary measures which would ensure compliance with these by-laws and to report such findings to an authorised provider.
  - (4) If any person contravenes any provision of subsection (1) or subsection (2) he or she shall within twelve hours, or earlier if possible, advise the authority or the authorised provider, of the details of the contravention and the reasons for it.

## **PART 2**

### **ON-SITE SANITATION SERVICES AND ASSOCIATED SERVICES**

#### **Application for infrastructure**

- 67. (1) If an agreement for on site sanitation and associated services in accordance with section 6 exists and no infrastructure in connection therewith exists on the premises, the owner must immediately make application on a form approved by the authority and—
  - (a) pay the prescribed charge for the installation of necessary infrastructure; or
  - (b) with the approval by the authority or the authorised provider, install the connecting sewer or on site sanitation services in accordance with the specifications of the authority or the authorised provider.
- (2) An authority or the authorised provider may specify the type of on site sanitation services to be installed, where a Ventilated Improved Pit Latrine is not appropriate in specific circumstances.

#### **Services associated with on-site sanitation services**

- 68. (1) The removal or collection of conservancy tank contents, night soil or the emptying of pits will be undertaken by the authority or the authorised provider, in accordance with a removal and collection schedule determined by the authority or the authorised provider.
- (2) Copies of the collection and removal schedule will be available on request.

## **Charges in respect of services associated with on-site sanitation services**

69. (1) Charges in respect of the removal or collection of conservancy tank contents, night soil or the emptying of pits will be based on the volume removed by vacuum tank or otherwise.
- (2) If the volume of conservancy tank contents, night soil or the emptying of pits removed or collected cannot be quantified the authority or authorised provider may charge a fixed charge as prescribed.

## **PART 3 SEWAGE DISPOSAL**

### **Provision of a connecting sewer**

70. (1) If an agreement for the use of the sewage disposal system in accordance with section 6 exists and no connecting sewer exists in respect of the premises, the owner must immediately make application on a form approved by the authority and—
- (a) pay the prescribed charge for the installation of such a connecting sewer; or
- (b) with the approval by the authority or the authorised provider install the connecting sewer in accordance with any specifications of the authority or the authorised provider.
- (2) If an application is made for use of the sewage disposal system to a premises which is so situated that it is necessary to extend the sewer in order to connect the sewage disposal system to the premises, the authority or the authorised provider, may agree to the extension subject to such conditions as it may impose.

### **Location of connecting sewer**

71. (1) A connecting sewer provided and installed by the authority or the authorised provider, or owner in terms of section (70) shall—
- (a) be located in a position agreed to between the owner and the authority or the authorised provider and be of a size determined by an authorised officer;
- (b) terminate at a connection point approximately 1 meter inside the premises from the boundary of the land owned by or vested in the Authority or the authorised provider or over which it has a servitude or other right or when subsection (3) applies at the connecting point designated in terms of that subsection.
- (2) In reaching agreement with an owner concerning the location of a connecting sewer, the authority or the authorised provider, shall ensure that the owner is aware of—
- (a) practical restrictions that may exist regarding the location of a connecting sewer pipe;
- (b) the cost implications of the various possible locations of the connecting sewer;
- (c) whether or not the authority or the authorised provider requires the owner to fix the location of the connecting sewer by providing a portion of his or her sewer

installation at or outside the boundary of his or her premises or such agreed position inside or outside his or her premises where the connection is required, for the authority or the authorised provider to connect to such installation.

- (3) An authority or the authorised provider may at the request of any person agree, subject to such conditions as he or she may impose, to a connection to a sewer other than that which is most readily available for the drainage of the premises; provided that the applicant shall be responsible for any extension of the drainage installation to the connecting point by an authorised officer and for obtaining at his or her cost, such servitudes over other premises as may be necessary.
- (4) An owner must pay the prescribed connection charge.
- (5) Where an owner is required to provide a sewage lift as provided for in terms of the Building Regulations the rate and time of discharge into the sewer shall be subject to the approval of the authority or the authorised provider.

### **Provision of one connecting sewer for several consumers on same premises**

72. (1) Notwithstanding the provisions of section 70 only one connecting sewer to the sewage disposal system may be provided for the disposal of sewage from any premises, irrespective of the number of consumer unit consumer units of consumers located on such premises.
- (2) Where the owner, or the person having the charge or management of any premises on which several consumer unit(s) are situated, requires the disposal of sewage from such premises for the purpose of disposal from the different consumer units, the authority or the authorised provider may, in its discretion, provide and install either—
    - (a) a single measuring device in respect of the premises as a whole or any number of such consumer units; or
    - (b) a separate measuring device for each consumer unit or any number thereof.
  - (3) Where the authority or the authorised provider, has installed a single measuring device as contemplated in subsection (2)(a), the owner or the person having the charge or management of the premises—
    - (a) must, if the authority or the authorised provider so requires, install and maintain on each branch pipe extending from the connecting sewer to the different consumer units—
      - (i) a separate measuring device; and
      - (ii) an isolating valve; and
    - (b) will be liable to the authority or the authorised provider for the tariffs and charges for all sewage disposed from the premises through such a single measuring device, irrespective of the different quantities disposed by the different consumers served by such measuring device.
  - (4) Notwithstanding subsection (1), the authority or the authorised provider, may authorise that more than one connecting sewer be provided on the sewage disposal system for the disposal of sewage from any premises comprising sectional title units or if, in the

opinion of the authority or the authorised provider, undue hardship or inconvenience would be caused to any consumer on such premises by the provision of only one connecting sewer.

- (5) Where the provision of more than one connecting sewer is authorised by the authority or the authorised provider, under subsection (4), the tariffs and charges for the provision of a connecting sewer is payable in respect of each sewage connection so provided.

### **Interconnection between premises**

73. An owner of premises shall ensure that up interconnection exists between the drainage installation on his or her premises and the drainage installation on other premises, unless he or she has obtained the prior written consent of the authority or the authorised provider, and complies with any conditions that it may have imposed.

### **Disconnection of draining installation from connecting sewer**

74. The authority or the authorised provider may disconnect a drainage installation from the connecting sewer and remove the connecting sewer if—
- (a) the agreement for provision has been terminated in terms of section 15 and it has not received an application for subsequent provision to the premises served by the sewer within a period of 90 days of such termination; or
  - (b) the building on the premises concerned has been demolished.

## **PART 4 SEWAGE DELIVERED BY ROAD HAULAGE**

### **Acceptance of sewage delivered by road haulage**

75. (1) An authority or the authorised provider, may, at its discretion, and subject to such conditions as it may specify, accept sewage for disposal delivered to the municipalities sewage treatment plants by road haulage.

### **Written permission for delivery of sewage by road haulage**

76. (1) No person shall discharge sewage into the municipalities sewage treatment plants by road haulage except with the written permission of the authority or the authorised provider, and subject to such period and any conditions that may be imposed terms of the written permission.
- (2) The charges for any sewage delivered for disposal to the municipalities sewage treatment plants shall be assessed by the authority or the authorised provider, in accordance with the prescribed tariffs of charges.

### **Conditions for delivery of sewage by road haulage**

77. (1) When sewage is delivered by road haulage—
- (a) the time of delivery shall be arranged with the authority or the authorised provider; and

- (b) the nature and composition of the sewage shall be established to the satisfaction of the authority or the authorised provider, prior to the discharge thereof and no person shall deliver sewage that does not comply with the standards laid down in terms of these by-laws.

### **Withdrawal of permission for delivery of sewage by road haulage**

78. (1) The authority or the authorised provider, may withdraw any permission, after giving at least fourteen days written notice of its intention to a person permitted to discharge sewage by road haul if the person—
- (a) fails to ensure that the sewage so delivered conforms to the standards prescribed in Schedule “A” or “B”, as applicable, or in the written permission; or
  - (b) fails or refuses to comply with any notice lawfully served on him or her in terms of these by-laws or contravenes any provisions of these by-laws or any condition imposed on him in terms of any permission granted to him or her; and
  - (c) fails to pay the assessed charges in respect of any sewage delivered.

## **PART 5 DISPOSAL OF INDUSTRIAL EFFLUENT AND TRADE PREMISES**

### **Application for disposal of industrial effluent**

79. (1) A person must apply for permission to discharge industrial effluent into the sewage disposal system of the authority or the authorised provider, in terms of section 6.
- (2) The authority or the authorised provider may, if in its opinion, the capacity of a sewage disposal system is sufficient to permit the conveyance and effective treatment and lawful disposal of the industrial effluent it will, for such period and subject to such conditions it may impose, grant written permission to discharge industrial effluent.
  - (3) The provisions of Chapter 2 will mutatis mutandis apply to any permission to discharge industrial effluent.
  - (4) Any person who wishes to construct or cause to be constructed, a building which shall be used as a trade premises, shall at the time of lodging a building plan in terms of section (4) of the National Building Regulations and Building Standards Act also lodge applications for the provision of sanitation services and for permission to discharge industrial effluent in terms of subsection (2).

### **Unauthorised discharge of industrial effluent**

80. (1) No person shall discharge or cause or permit to be discharged into the sewage disposal system any industrial effluent except with and in terms of the written permission of the authority or the authorised provider, and in accordance the provisions of this part.
- (2) A person to whom such permission is granted shall pay to the authority or the authorised provider, any prescribed charges.



## **Quality standards for disposal of industrial effluent**

81. (1) A person to whom permission has been granted in terms of section 79 must ensure that no industrial effluent is discharged into the sewage disposal system of the authority or the authorised provider, unless it complies with the standards and criteria set out in Schedules A and B hereto.
- (2) The authority or the authorised provider may by writing in the permission concerned, relax or vary the standards in Schedules A or B, provided that the authority or the authorised provider, is satisfied that any such relaxation represents the best practicable environmental option.
- (3) In determining whether relaxing or varying the standards in Schedules A or B represents the best practicable environmental option an authority or the authorised provider will consider—
- (a) whether the applicant's undertaking is operated and maintained at optimal levels;
  - (b) whether technology used by the applicant represents the best available option to the applicant's industry and, if not, whether the installation of such technology would entail unreasonable cost to the applicant;
  - (c) whether the applicant is implementing a program of waste minimisation which complies with national and local waste minimisation standards to the satisfaction of the authority or the authorised provider,;
  - (d) the cost to the authority or the authorised provider, of granting the relaxation or variation; and
  - (e) the environmental impact or potential impact of such a relaxation or variation.
- (4) Test samples may be taken at any time by a duly qualified sampler to ascertain whether the industrial effluent complies with Schedule A and B or any other standard laid down in a written permission.

## **Conditions for disposal of industrial effluent**

82. (1) The authority or the authorised provider, may in the written permission or at any time, by written notice, require a person to—
- (a) subject the industrial effluent to such preliminary treatment as in the opinion of the authority or the authorised provider will ensure that the industrial effluent conforms to the standards prescribed in Schedules A and B before being discharged into the sewage disposal system;
  - (b) install such equalising tanks, valves, pumps, appliances, meters and other equipment as in the opinion of the authority or the authorised provider, will be necessary to control the rate and time of discharge into the sewage disposal system in accordance with the conditions imposed by it;
  - (c) install for the conveyance of his or her industrial effluent into the sewage disposal system at a given point, a drainage installation separate from the drainage installation for waste water and standard domestic effluent and may prohibit such person from disposing of his or her industrial effluent at any other point and from

disposing of his or her waste water and standard domestic effluent by means other than into a sewage disposal system;

- (d) construct on any pipe conveying his or her industrial effluent to any sewer, a manhole or stop-valve in such position and of such dimensions and materials as the authority or the authorised provider, may prescribe;
  - (e) provide all such information as may be required by the authority or the authorised provider, to enable it to assess the tariffs or charges due to the authority or the authorised provider;
  - (f) provide adequate facilities such as level or overflow detection devices, standby equipment, overflow catch-pits, or other appropriate means to prevent a discharge into the sewage disposal system which is in contravention of these by-laws;
  - (g) cause any meter, gauge or other device installed in terms of this section to be calibrated by an independent authority at the cost of that person at such intervals as required by the authority or the authorised provider, and copies of the calibration to be forwarded to it; and
  - (h) cause his or her industrial effluent to be analysed as often and in such manner as may be prescribed by the authority or the authorised provider and provide it with the results of these tests when completed.
- (2) The cost of any treatment, plant, works or analysis which the permit holder may be required to carry out, construct or install in terms of subsection (1), shall be borne by the permit holder concerned.
  - (3) The written permission of the authority or the authorised provider must be obtained for any proposed changes to the composition of industrial effluent discharged into the sewage disposal system.

### **Withdrawal of written permission for disposal of industrial effluent**

83. (1) The authority or the authorised provider may withdraw any permission, after giving at least fourteen days written notice of its intention to a person permitted to discharge industrial effluent into the sewage disposal system if the person—
- (a) fails to ensure that the industrial effluent discharged conforms to the industrial effluent standards prescribed in Schedules A and B of these by-laws or the written permission;
  - (b) fails or refuses to comply with any notice lawfully served on him or her in terms of these by-laws or contravenes any provisions of these by-laws or any condition imposed in terms of any permission granted to him or her; or
  - (c) fails to pay the assessed charges in respect of any industrial effluent discharged.
- (2) The authority or the authorised provider may on withdrawal of any written permission—
- (a) in addition to any steps prescribed in these by-laws, and on fourteen days' written notice authorise the closing or sealing of the connecting sewer of the said

premises to any sewer for such charge as may be prescribed in the Authority or the authorised provider's tariff of charges; and

- (b) refuse to accept any industrial effluent until it is satisfied that adequate steps are or have been to ensure that the industrial effluent to be discharged conforms with the standards prescribed in these by-laws.

### **Notification of non-compliance with standards of industrial effluent**

- 84 In the event that industrial effluent that does not comply with the standards in Schedules A or B or the written permission issued in respect of that process or premises, is discharged into the sewage disposal system, the authority or the authorised provider must be informed of the incident and the reasons therefore within twelve hours of such discharge.

## **PART 6 MEASUREMENT OF QUANTITY OF EFFLUENT DISCHARGED TO SEWAGE DISPOSAL SYSTEM**

### **Measurement of quantity of standard domestic effluent discharged**

85. (1) The quantity of standard domestic effluent discharged shall be determined by a percentage of water supplied by the authority or the authorised provider, provided that where the authority or the authorised provider is of the opinion that such a percentage in respect of specific premises is excessive, having regard to the purposes for which water is consumed on those premises, the authority or the authorised provider may reduce the percentage applicable to those premises to a figure which, in its opinion and in the light of the available information, reflects the proportion between the likely quantity of sewage discharged from the premises and the quantity of water supplied there.
- (2) Where a premises is supplied with water from a source other than or in addition to the authority or the authorised provider's water supply system, including abstraction from a river or borehole, the quantity will be a percentage of the total water used on that premises as may be reasonably estimated by the authority or the authorised provider.

### **Measurement of quantity of Industrial effluent discharged**

86. (1) The quantity of industrial effluent discharged into the sewage disposal system shall be determined—
- (a) where a measuring device is installed by the quantity of industrial effluent discharged from a premises as measured through that measuring device;
  - (b) until such time as a measuring device is installed by a percentage of the water supplied by the authority or the authorised provider, to that premises.
- (2) Where a premises is supplied with water from a source other than or in addition to the authority or the authorised provider's water supply system, including abstraction from a river or borehole, the quantity will be a percentage of the total water used on that premises as may be reasonably estimated by the authority or the authorised provider.
- (3) Where a portion of the water supplied to the premises forms part of the end product of any manufacturing process or is lost by reaction or evaporation during the

manufacturing process or for any other reason, the authority or the authorised provider may on application reduce the assessed quantity of industrial effluent.

### **Reduction in the quantity determined in terms of Sections 85 and 86(1)(a)**

87. (1) A person shall be entitled to a reduction determined in terms of Sections 85 and 86(1)(a) in the event that the quantity of water on which the percentage is calculated was measured during a period where water was wasted or a leakage was undetected if the consumer demonstrates to the satisfaction of the authority or the authorised provider, that the said water was not discharged into the sewage disposal system.
- (2) The reduction in the quantity shall be based on the quantity of water loss through leakage or wastage during the leak period.
- (3) The leak period shall be either the measuring period immediately prior to the date of repair of the leak or the measurement period during which the leak is repaired, whichever results in the greater reduction in the quantity.
- (4) The quantity of water loss shall be calculated as the consumption for the leak period less an average consumption, based on the preceding three months, for the same length of time. In the event of no previous consumption history being available the average water consumption will be determined by the authority or the authorised provider, after due consideration of all relevant information.
- (5) There shall be no reduction in the quantity if the loss of water directly or indirectly resulted from the consumer's failure to comply with or contravention of these by-laws.

## **PART 7 DRAINAGE INSTALLATIONS**

### **Construction or installation of drainage installations**

88. (1) Any drainage installation constructed or installed must comply with any applicable specifications in terms of the Building Regulations and any standards prescribed in terms of the Act.
- (2) (a) Where the draining installation is a pit latrine it must be of the ventilated improved pit latrine type having—
- (i) a pit of 2m<sup>3</sup> capacity;
  - (ii) lining as required;
  - (iii) a slab designed to support the superimposed loading; and
  - (iv) protection preventing children from falling into the pit.
- (b) The ventilated improved pit latrine must conform with the following specifications—
- (i) the pit must be ventilated by means of a pipe, sealed at the upper end with durable insect proof screening fixed firmly in place;

- (ii) the ventilation pipe must project not less than 0.5m above the nearest roof, must be of at least 110 mm in diameter, must be installed vertically with no bend;
  - (iii) the interior of the closet must be finished smooth so that it can be kept in a clean and hygienic condition. The superstructure must be well-ventilated in order to allow the free flow of air into the pit to be vented through the pipe;
  - (iv) the opening through the slab must be of adequate size as to prevent fouling. The rim must be raised so that liquids used for washing the floor do not flow into the pit. It shall be equipped with a lid to prevent the egress of flies and other insects when the toilet is not in use;
  - (v) must be sited in a position that is independent of the residential structure;
  - (vi) must be sited in positions that are accessible to road vehicles having a width of 3.0m in order to facilitate the emptying of the pit;
  - (vii) in situations where there is the danger of polluting an aquifer due to the permeability of the soil, the pit must be lined with an impermeable material that is durable and will not crack under stress;
  - (viii) in situations where the ground in which the pit is to be excavated is unstable, suitable support is to be given to prevent the collapse of the soil.
- (c) Any ventilated pit latrine should not usually be used by more than one household;
  - (d) Access to water for hand washing;
  - (e) The authority or the authorised provider may levy a charge that covers all the operating and maintenance costs in the removal of the pit contents, transportation to a disposal site, the treatment of the contents to achieve a sanitary condition and the final disposal of any solid residues. The charge may be in the form of a monthly contribution or it may be levied as a single payment when the service is rendered.

### **Drains in Streets or Public Places**

89. No person shall for the purpose of conveying sewage derived from whatever source, lay or construct a drain on, in or under a street, public place or other land owned by, vested in, or under the control of the authority or the authorised provider, except with the prior written permission of the authority or the authorised provider, and subject to such conditions as it may impose.

### **Construction by authority or the authorised provider**

90. The authority or the authorised provider, may agree with the owner of any premises that any drainage work which such owner desires, or is required to construct in terms of these by-laws or the Building Regulations, will be constructed by the authority or the authorised provider, against payment, in advance or on demand, of all costs associated with such construction.

### **Maintenance of drainage installation**

91. (1) The owner or occupier of any premises must maintain any drainage installation and any sewer connection on such premises.
- (2) Any person who requests the authority or the authorised provider, to clear a drainage installation will be liable to pay the prescribed tariff.
- (3) An authority or the authorised provider, may, on the written application of the owner or occupier of any premises, inspect and test the drainage installation of such premises or any section thereof and recover from the owner or occupier the cost of such inspection and test, calculated at the rate specified in the prescribed tariff of charges.

### **Installation of pre-treatment facility**

92. An authority or the authorised provider may require that any new premises must be provided with a minimum pre-treatment facility of a type specified by it prior to that premise being connected to the sewage disposal system.

### **Protection from ingress of floodwaters**

93. Where a premise is situated in the 1 in 50 year's flood plain the top level of manholes, inspection chambers and gullies are to be above the 1 in 50 years flood level, except, in the case of manholes and inspection chambers, where the cover is secured in place by means approved by the authority.

## **PART 8 PROTECTION OF INFRASTRUCTURE**

### **Power of Entry and Inspection**

94. (1) An officer of the authority may for any purpose connected with the implementation or enforcement of these By-laws, at all reasonable times or in an emergency at any time, enter premises, request information, take samples, make such examination and enquiry and carry out work as he or she may deem necessary, and for those purposes operate any component of the drainage installation.
- (2) If the authorised officer considers it necessary that work be performed to enable an authorised officer properly and effectively to implement a function referred to in subsection (1), he may—
- (a) by written notice require the owner or occupier of the premises at his own cost to do specified work within a specified period; or
- (b) if in his opinion the situation is a matter of urgency, without prior notice do such work or cause it to be done, at the cost of the owner.
- (3) If the work referred to in subsection (2) is carried out for the sole purpose of establishing whether a contravention of these by-laws has been committed and no such contravention is established, the authority shall bear the expense connected therewith together with that of restoring the premises to its former condition but it shall not otherwise bear such expense.

### **Trespassing on the Sewage Disposal System**

95. (1) No person shall without the prior written permission of the authorised officer enter—
- (a) upon an area used for the purpose of the sewage disposal system which is enclosed by a fence or where entry is prohibited by notice boards; or
  - (b) a structure used by the authority in connection with its sewage disposal system.

### **Interference with the Sewage Disposal System**

96. (1) Except with the prior authority of an authorised officer—
- (a) no person shall interfere or tamper with the sewage disposal system;
  - (b) no person shall make a connection to the sewage disposal system save as contemplated in section 67;
  - (c) no person shall construct a building or raise or lower the ground level within an area that is subject to a sewer servitude.

### **Damage to Sewage Disposal System**

97. (1) No person shall damage or endanger the sewage disposal system, or cause or permit it to be damaged or endangered.
- (2) Any person who intends performing work which may cause damage to the sewage disposal system on land owned by or vested in the water services authority or over which it has a servitude or other right, shall prior to commencement of such work, ascertain from an authorised officer if any part of the sewage disposal system is situated on the land.
- (3) If work which in the opinion of an authorised officer could damage or endanger the sewage disposal system is to be performed or is being performed on land referred to in subsection (2), or on land adjacent thereto, he may by notice in writing require the person concerned not to commence, or to cease performing, the work until such time as he has complied with the conditions specified in the notice.

### **Consequential Maintenance-of Sewers**

98. (1) Whenever a sewer is damaged or becomes obstructed or in need of repair as a result of the act or omission of any person, whether by reason of the failure of such person to comply with the requirements of these by-laws or otherwise, the authority shall be entitled to carry out such work of maintenance or repair as an authorised officer considers necessary or to remove the obstruction at the expense of such person and to recover from him the full cost of doing so.

### **Obstruction of Access to Sewage Disposal System**

99. (1) No person shall prevent or restrict access to the sewage disposal system.
- (2) If a person contravenes subsection (1), the authorised officer may:

- (a) by written notice require the person to restore access at his or her own cost within a specified period; or
- (b) if he or she is of opinion that the situation is a matter of urgency, without prior notice restore access and recover the full cost of doing so from such person.

### **Work By Private Persons**

100. (1) The authority or the authorised provider shall lay all sewers and connecting sewers unless it elects not to do so in which case the work shall be executed in accordance with the authority's Conditions of Contract applicable to the work and the following provisions:
- (a) any persons carrying out such work in terms of this section shall prior to commencement of such work lodge with an authorised officer a written indemnity to his indemnifying the authority against all liability in respect of any accident or injury to persons or loss or damage to property which may occur as the direct result of the execution of such works;
  - (b) where a connection is to be made with any sewer it shall be made at a point indicated by the authorised officer;
  - (c) whenever the surface of any street or road has been disturbed in the course of such work, the restoration of such surface shall be undertaken solely by the authority at the expense of the person carrying out such work.
- (2) Prior to the disturbance of the surface of such street or road a deposit shall be made by such person with the authority which in the opinion of the authorised officers is sufficient to cover the estimated cost of such restoration.
- (3) When the actual cost is greater or less than the amount deposited an excess shall be recoverable from such person and any balance shall be refunded to him.
- (4) All work shall be carried out in accordance with the requirements and to the satisfaction of an authorised officer.

## **CHAPTER 5**

### **APPROVALS OF WATER SERVICE PROVIDERS, SUPPLIERS OF WATER FOR INDUSTRIAL USE AND REGISTRATION OF WATER SERVICES INTERMEDIARIES**

#### **PART 1**

#### **WATER SERVICES PROVIDER — APPROVAL**

#### **Request for Applications for Approval**

101. (1) The authority may, in respect of any water scheme established or to be established in its area of jurisdiction, at any time if it decides not to be the water services provider in respect of such water scheme as contemplated in section 19(1)(a) of the Act, by public notice, call for proposals from suitable persons or institutions to seek the approval of the authority to be the water services provider in respect of such water scheme as contemplated in section 22(1), read with section 19(1)(b) of the Act.



- (2) The public notice referred to in section 101(1) shall be delivered to every public sector water services provider known to the authority and shall also be published in a newspaper or newspapers circulating in the area where the water scheme is situated which notice shall be published in the predominate language of such newspaper and of the majority of people to be served by such water scheme.
- (3) The authority shall give prior consideration to any proposals submitted by any public sector water services provider as contemplated in section 19(2) of the Act before considering any proposals submitted by any private sector water services providers.
- (4) The authority shall, in respect of every water scheme for which it intends to approve a water services provider—
  - (a) prepare a full and detailed description of the water scheme or schemes which will be operated by the water services provider and which shall provide that the authority complies with the criteria set in section 11 of the Act, these by-laws and the water development plan adopted by the authority in terms of section 15 of the Act, which description shall include, but not be limited to:
    - (i) the name or names of the water scheme or schemes;
    - (ii) an indication of the nature of the water services to be provided by the water services provider;
    - (iii) detailed plans or drawings, with co-ordinates and scales, and specifications depicting the physical installation associated with the water scheme or schemes, including all the structures, aqueducts, pipes, valves, pumps, meters or other apparatus relating thereto used or intended to be used by it in connection with the provision of water services contemplated in the proposal;
    - (iv) a detailed description, including numbers and locality, of the consumers or potential consumers that will be supplied with water by the water services provider;
    - (v) details of the source, the quality and quantity of water that will be supplied to consumers or potential consumers and what arrangements are in place to ensure that such quality and quantity is consistently maintained; and
    - (vi) a certificate indicating who the legal owner or owners of the water scheme or schemes is or are; and
    - (vii) certified copies of all documents and deeds reflecting the legal status of the water scheme or schemes, including deeds of servitude where appropriate.
  - (b) make such information available to all persons or institutions who wish to submit a proposal in response to the public notice published in terms of subsection (4)(a).
- (5) Any proposal submitted in response to the public notice contemplated in section 2(1) shall include the following:
  - (a) a certified copy of the identity document of the applicant, or a certified copy of the founding document or constitution of the applicant, if the applicant is a legal person;

- (b) a certified resolution adopted by the management body of the applicant, if the applicant is a legal person, resolving to apply for approval as a water services provider;
- (c) a certified list of the names and addresses of all persons occupying a leadership and decision-making power in the applicant;
- (d) a detailed statement, supported by adequate proof of authenticity, setting out the applicants qualifications, capacity to undertake the work associated with the provision of water services in the circumstances reflected in the application, and the experience, skills and financial resources available to it to undertake the provision of water services to be provided by the applicant;
- (e) a business plan setting out how the water scheme or water schemes will be operated and maintained during the period the water services provider will undertake the supply of water services as contemplated in the proposal, and what arrangements have been adopted to deal with any emergency, including natural disasters and drought;
- (f) a budget describing the financial administration of the water scheme or water schemes, the source of any capital or revenue requirements, and an indication of the sustainability of the water scheme or water schemes;
- (g) details of tariffs and charges that the applicant will levy on all consumers and potential consumers, the method of calculating such tariffs and charges, the process whereby increases or decreases in such tariffs and charges will be dealt with, and the manner in which such tariffs and charges comply with the national norm set by the Minister of Water Affairs and Forestry in terms of section 10 of the Act; and
- (h) full details of the conditions that will be imposed in terms of section 4 of the Act and full details required in terms of section 19(4) of the Act.

### **Application for Approval**

102. (1) Any person or institution seeking approval from the authority in terms of sections 6(1) or 22(1) of the Act under circumstances other than in response to a notice published in terms of section 101(1), or the renewal of an existing approval, shall do so in accordance with the provisions of these by-laws and at its own expense.
- (a) No application for approval in terms of section 6(1) of the Act shall be granted in respect of any water scheme where the consumers or potential exceed 50 persons or where the population density exceeds one person per hectare.
  - (b) Any application for an approval in terms of section 30(2)(d) of the Act shall be made under the provisions of section 22(1) of the Act.
- (2) An application for such approval, or the renewal of such approval, shall be made to the authority in writing.
- (3) Immediately on receipt of an application made in terms of section 22(1) of the Act, if the applicant is a private sector water services provider, the authority shall, in terms of section 19(2) of the Act, notify all public sector water providers known to it and:

- (a) request such public sector water services providers to notify the authority within a period of 30 days from the date of the receipt by the public sector water provider of such notice whether it is willing and able to perform the functions contained in the application, and if it is, to provide the authority with the documents and particulars referred to in subsection (4), and
  - (b) on receipt of such documentation and particulars, the authority shall consider such application and decide whether to approve a public sector water services provider or a private sector water services provider in respect of the water scheme concerned.
- (4) Any application for approval in terms of section 102(1), or the renewal of any approval granted by the authority, shall be accompanied by at least, the following documents or particulars, provided that, in the case of a renewal of an approval, the authority may, in its discretion, dispense with some of the documents or particulars to avoid unnecessary duplication:
- (a) a certified copy of the identity document of the applicant, if a natural person, or a certified copy of the founding document or constitution of the applicant, if the applicant is a legal person;
  - (b) a certified resolution adopted by the management body of the applicant, if the applicant is a legal person, resolving to apply for approval as a water services provider;
  - (c) a certified list of the names and addresses of all persons occupying a leadership and decision-making power in the applicant;
  - (d) a detailed statement, supported by adequate proof of authenticity, setting out the applicants qualifications, capacity to undertake the work associated with the provision of water services in the circumstances reflected in the application, and the experience, skills and financial resources available to it to undertake the provision of water services to be provided by the applicant;
  - (e) a full and detailed description of the water scheme or schemes which will be operated by the applicant containing sufficient information to enable the authority to determine whether the water scheme or schemes complies with the criteria set in section 11 of the Act, these by-laws and the water development plan adopted by the authority in terms of section 15 of the Act, which description shall include, but not be limited to:
    - (i) the name or names of the water scheme or schemes;
    - (ii) an indication of the nature of the water services to be provided by the applicant;
    - (iii) detailed plans or drawings, with co-ordinates and scales, and specifications depicting the physical installation associated with the water scheme or schemes, including all the structures, aqueducts, pipes, valves, pumps, meters or other apparatus relating thereto used or intended to be used by it in connection with the provision of water services contemplated in the application;

- (iv) a detailed description, including numbers and locality, of the consumers or potential consumers that will be supplied with water by the applicant;
- (v) details of the source, the quality and quantity of water that will be supplied to consumers or potential consumers and what arrangements are in place to ensure that such quality and quantity is consistently maintained;
- (vi) a business plan setting out how the water scheme or water schemes will be operated and maintained during the period the applicant undertakes the supply of water services as contemplated in the application, and what arrangements have been adopted to deal with any emergency, including natural disasters and drought;
- (vii) a budget describing the financial administration of the water scheme or water schemes, the source of any capital or revenue requirements, and an indication of the sustainability of the water scheme or water schemes; and
- (viii) details of tariffs and charges that the applicant will levy on all consumers and potential consumers, the method of calculating such tariffs and charges, the process whereby increases or decreases in such tariffs and charges will be dealt with, and the manner in which such tariffs and charges comply with the national norm set by the Minister of Water Affairs and Forestry in terms of section 10 of the Act.
- (ix) a certificate indicating who the legal owner or owners of the water scheme or schemes is or are;
- (x) certified copies of all documents and deeds reflecting the legal status of the water scheme or schemes, including deeds of servitude where appropriate; and
- (xi) full details of the conditions that will be imposed in terms of section 4 of the Act and full details required in terms of section 19(4) of the Act

### **Additional Information to make Decision**

103. (1) The authority may call for any additional information or documents reasonably required to enable it to determine whether the proposer or applicant, including a public sector water provider, or the water scheme or schemes will comply with the Act, these by-laws and the water development plan of the authority, and whether the obligations of the authority, imposed on it by the Act, will be met.
- (2) The authority may, and it shall, if it initially decides to refuse to accept a proposal made as contemplated in section 101(1), or if it, initially decides to refuse an application made in terms of section 102(1), including an application made by a public sector water provider, prior to making a final decision, meet with the proposer or applicant, and any organisation reasonably representative of the or potential consumers of the water scheme or schemes, in order to hear representations made by the applicant and such representative organisations in support of, or against, the applications, and it shall take such representations into account in arriving at its final decision.

### **Procedure on Approval**

104. (1) In the event of the authority granting such approval it shall—

- (a) in the case of an application for approval in terms of section 6(1) of the Act, issue a letter of approval to the applicant containing such conditions as the authority may deem appropriate, which conditions shall be binding, on the applicant, and which may contain an obligation to comply with any provision of these by-laws as though such person or institution was an approved water services provider;
- (b) in the case of an application for approval in terms of section 22(1) of the Act—
  - (i) if the applicant is a private sector water services provider, cause a notice to be published in a newspaper or newspapers circulating in the area where the water scheme to which the application relates is situated, publicly disclosing its intention to approve such application; and
  - (ii) enter into a contract with the applicant, as contemplated in section 19(1)(b)(i) of the Act, provided that, in the case of a private sector water services provider, such contract shall not commence until a period of thirty days has elapsed after the date of the publication of the notice contemplated in subsection (1)(b)(i) and after the authority has taken into account any representations made by any person or institution in response to the said notice; or
  - (v) enter into a joint venture agreement with the water services provider as contemplated in section 19(1)(b)(ii) of the Act upon such terms and conditions as may be negotiated by such parties, provided that, in the case of a private sector water services provider, shall not commence until a period of thirty days has elapsed after the date of the publication of the notice contemplated in subsection (1)(b)(i) and after the authority has taken into account any representations made by any person or institution in response to the said notice.
- (2) Any notice contemplated in subsection (1)(b)(i) shall be published in a newspaper or newspapers, and in the predominant language of such newspaper, which is or are most likely to be read by a majority of the consumers or potential consumers of the water scheme and by the public generally in the area of jurisdiction of the authority.

**PART 2**  
**WATER SCHEMES MANAGED AND ADMINISTERED BY AN APPROVED WATER SERVICES PROVIDER**

**Water Scheme Categories**

105. (1) This section shall apply in all cases where the authority has granted its approval to a person or institution in terms of section 22(1) of the Act read with section 101 and 102 of these by-laws.
- (2) The authority shall designate each water scheme in its area of jurisdiction into one or other category defined in subsection (3).
  - (3) The categories of water schemes contemplated in subsection (2) shall be:
    - (a) **‘Category A’** being a range of water schemes from elementary water schemes providing water supply services by drawing water from a hand pump or protected

spring, and/or the provision of elementary sanitation services to a rural community to more advanced water schemes providing water supply services by way of an abstraction system which is more sophisticated which has a metered connection to a bulk main and the capacity to supply both communal stand-pipes and private connection provision, and/or services to a rural or semi-urban community;

- (b) **‘Category B’** being a range of water schemes from water schemes where the abstraction and reticulation provides water to laid out or clearly identified sites, and/or sanitation services, to small towns, including unproclaimed towns, to water schemes providing water supply services and/or sanitation services to a township proclaimed or approved under any law relating to the establishment of townships and/or water supply services for industrial use, and/or for the disposal of industrial effluent.
- (4) The authority may from time to time in appropriate circumstances change the category to which any water scheme has been allocated to.
  - (5) An authority shall give written notice to the appropriate approved water services provider of its intention to the to which any water scheme is allocated to such water services provider, and the change in allocation shall take effect from the date upon which such notice is delivered to the relevant water services provider.
  - (6) The decision of the authority to allocate a category to a water scheme shall be final, provided that any person or institution which has an interest in a particular water scheme who is aggrieved by such allocation on the grounds that he or she is materially prejudiced by such allocation, shall be entitled to appeal to the council of the authority against such allocation in accordance with the following provisions:
    - (a) an appeal shall be noted in writing delivered to a recognised main office of the authority or by pre-paid post addressed to the recognised postal address of the authority;
    - (b) the document evidencing the appeal shall state the grounds upon which the appellant considers that he or she is prejudiced by the allocation appealed against;
    - (c) the appeal shall be considered and disposed of by the council within 45 days of the receipt by it of the document evidencing the appeal;
    - (d) the decision of the council shall be final.
  - (7) The authority may, in its discretion, in respect of any water scheme falling into category A, suspend any by-law for a defined period of time or indefinitely upon such conditions as it may impose, which conditions may be imposed either at the time that it resolves to suspend any by-law or at any time thereafter, and it may at any time, in its discretion, withdraw such suspension, provided that it shall give not less than 60 days written notice of such withdrawal to all interested and affected parties.
  - (8) No by-law shall be suspended if the consequences of such suspension shall constitute a contravention of’ the Act.

## Water Services Provider Categories

106. (1) Every approved water services provider shall be designated as a Category 1 or a Category 2 provider in accordance with the following criteria:
- (a) A **Category 1** provider shall be a person or institution which, in the opinion of the authority, has the capacity, without external assistance, to manage and administer the water scheme in respect of which approval has been granted in terms of section 22(1) of the Act and to maintain and operate the water scheme efficiently and effectively.
  - (b) A **Category 2** provider shall be a person or institution which, in the opinion of the authority, does not have the capacity, without external assistance, to manage and administer the water scheme in respect of which approval has been granted in terms of section 22(1) of the Act and to maintain and operate the water scheme efficiently and effectively.
- (2) The decision of the authority to allocate a Category to an approved water services provider shall be final, provided that any person or institution which has an interest in a particular provider who is aggrieved by such allocation on the grounds that he or she is materially prejudiced by such allocation, shall be entitled to appeal to the council of the authority against such allocation in with the following provisions:
- (a) an appeal shall be noted in writing delivered to a recognised main office of the authority or by pre-paid post addressed to the recognised postal address of the authority;
  - (b) the document evidencing the appeal shall state the grounds upon which the appellant considers that he or she is prejudiced by the allocation appealed against;
  - (c) the appeal shall be considered and disposed of by the council within 45 days of the receipt by it of the document evidencing the appeal;
  - (d) the decision of the council shall be final.
- (3) The authority may, in its discretion, require a Category 2 water services provider, as a condition of approval in terms of section 22(1) of the Act, to enter into a contract with a support services provider who shall in the opinion of the authority, have the capacity to provide resources and assistance to the water services provider required to enable the water services provider to comply with the provisions of the Act, these by-laws (subject to section 105(6)) and any contract or joint venture agreement contemplated in section 19(1)(b)(i) or (ii) of the Act.
- (a) A certified copy of the agreement referred to in subsection (3) shall be lodged with the authority and such copy shall at all times reflect the true agreement between the parties to it.
  - (b) Any contract entered into in terms of subsection (3) shall be approved by the authority and may not be amended by the water service provider and the support services agent without the prior written consent of the authority.

## **Monthly Report**

107. (1) An approved water services provider shall submit a quarterly report to the authority providing at least the following information:
- (a) such information as the authority may reasonably require in order to enable it to monitor and evaluate the operation of the water scheme concerned and to satisfy itself that the said scheme is being operated in such a manner so as to fulfil the requirements of Act, the applicable water development plan, these by-laws and the contract or joint venture contemplated in section 19(1)(b)(i) or (ii) of the Act;
  - (b) full details in regard to:
    - (i) the names and addresses of all consumers;
    - (ii) the quantity of water consumed by each consumer,
    - (iii) the record of payments made by each consumer;
    - (iv) arrears owing by consumers to the approved water services provider and the steps being taken to recover such arrears;
    - (v) arrears written off as irrecoverable and reasons why they are deemed to be irrecoverable;
    - (vi) circumstances where water services are limited or discontinued and the reasons why such services are so limited or discontinued;
    - (vii) any action taken by such water services provider under Parts 1, 2, 5 and 6 of Chapter 2 of these by-laws where empowered to undertake such action, and
    - (viii) full details of all and any conditions imposed by the authority in terms of section 4(1) of the Act and any amendments made to such conditions from time to time.
- (2) Failure to submit the said report shall constitute grounds upon which the authority shall be entitled to review the approval granted by it in terms of section 22(1) of the Act to the water services provider concerned.

## **Disputes**

108. Any dispute or conflict arising between the authority and an approved water services provider shall be resolved arbitration as provided in section 35.

## **PART 3 WATER SUPPLY FOR INDUSTRIAL USE AND ACCEPTANCE OF INDUSTRIAL EFFLUENT**

### **Industrial Use — Application**

109. (1) Any person or institution seeking approval, or the renewal of an approval, from the authority in terms of section 7(1) of the Act shall do so in accordance with the provisions of these by-laws and at its own expense.



- (2) If an applicant intends making application simultaneously for approval in terms of section 7(1) and any other provision of the Act, he shall deal with each application separately, provided that information may be incorporated in one or the other application by reference.
- (3) An application for approval contemplated in subsection (1), or the renewal of such approval, shall be made to the authority in writing.
- (4) Any submission application for any approval in terms of subsection (1), or the renewal of any approval granted by the authority, shall be accompanied by, at least, the following documents or particulars, provided that, in the case of a renewal of an approval, the authority may, in its discretion, dispense with some of the documents or particulars to avoid unnecessary duplication:
  - (a) a certified copy of the identity document of the applicant, if a natural person, or a certified copy of the founding document or constitution of the applicant, if the applicant is a legal person;
  - (b) a certified resolution adopted by the management body of the applicant, if the applicant is a legal person, resolving to apply for approval as a water services provider;
  - (c) a certified list of the names and addresses of all persons occupying a leadership and decision-making power in the applicant;
  - (d) a detailed statement, supported by adequate proof of authenticity, setting out the applicants qualifications, capacity to undertake the work associated with the provision of water services in the circumstances reflected in the application, and the experience, skills and financial resources available to it to undertake the provision of water services to be provided by the applicant;
  - (e) a full and detailed description of the water scheme or schemes which will be operated by the applicant containing sufficient information to enable the authority to determine whether the water scheme or schemes complies with the criteria set in section 11 of the Act, these by-laws and the water development plan adopted by the authority in terms of section 15 of the Act, which shall include, but not be limited to:
    - (i) the name or names of the water scheme or schemes;
    - (ii) an indication of the nature of the water services to be provided by the applicant;
    - (iii) detailed plans or drawings, with co-ordinates and scales, and specifications depicting the physical installation associated with the water scheme or schemes, including all the structures, aqueducts, pipes, valves, pumps, meters or other relating thereto used or intended to be used by it in connection with the provision of water services contemplated in the application;
    - (iv) a detailed description, including numbers and locality, of the consumers or potential consumers that will be supplied with water by the applicant;

- (v) details of the source, the quality and quantity of water that will be supplied to consumers or potential consumers and what arrangements are in place to ensure that such quality and quantity is consistently maintained;
  - (vi) a business plan setting out how the water scheme or water schemes will be operated and maintained during the period the applicant undertakes the supply of water services as contemplated in the and in the application and what arrangements have been adopted to deal with any emergency, including natural disasters and drought;
  - (vii) a budget describing the financial administration of the water scheme or water schemes, the source of any capital or revenue requirements, and an indication of the sustainability of the water scheme or water schemes; and
  - (viii) details of tariffs and charges that the applicant will levy on all consumers and potential consumers, the method of calculating such tariffs and charges, the process whereby increases or decreases in such tariffs and charges will be dealt with, and the manner in which such tariffs and charges comply with the national norm set by the Minister of Water Affairs and Forestry in terms of section 10 of the Act.
- (f) The applicant shall also provide:
- (i) a certificate indicating who the legal owner or owners of the water scheme or schemes is or are;
  - (ii) certified copies of all documents and deeds reflecting the legal status of the water scheme or schemes, including deeds of servitude where appropriate; and
  - (iii) full details of the conditions that will be imposed in terms of section 4 of the Act and full details required in terms of section 19(4) of the Act.
- (5) The authority may call for any additional information or documents reasonably required to enable it to whether the proposer or applicant, including a public sector water provider, or the water scheme or schemes will comply with the Act, these by-laws and the water development plan of the authority, and whether the obligations of the authority, imposed on it by the Act, will be met.
- (6) The authority may, and it shall, if it initially decides to refuse an application made in terms of subsection (1), including an application made by a public sector water provider, prior to making a final decision, meet with the applicant, and any organisation reasonably representative of the consumers or potential consumers of the water scheme or schemes, in order to hear representations made by the applicant and such representative organisations in support of, or against, the applications, and it shall take such representations into account in arriving at its final decision.

### **Procedure on Approval**

110 In the event of the authority granting such approval it shall issue a letter of approval to the applicant containing such conditions as it may deem appropriate, which conditions shall be binding on the applicant.

**PART 4**  
**WATER SERVICES INTERMEDIARY — REGISTRATION**

**Application for Registration**

111. (1) Any person or institution seeking registration with the authority as a water services intermediary in terms of section 24 of the Act shall do so in accordance with the provisions of these by-laws and at his or its own expense.
- (2) An application for such registration shall be made to the authority in writing.
- (3) An application for such registration shall be accompanied by, at least, the following documents or particulars:
- (a) a certified copy of the identity document of the applicant, if a natural person, or a certified copy of the founding or constitution of the applicant, if the applicant is a legal person;
  - (b) a certified resolution adopted by the management body of the applicant, if the applicant is a legal person, resolving to apply for registration as a water services intermediary;
  - (c) a certified list of the names and addresses of all persons occupying a leadership and decision-making power in the applicant;
  - (d) a detailed statement, supported by adequate proof of authenticity, setting out the applicants qualifications, capacity to undertake the work associated with the provision of water services in the circumstances reflected in the application, and the experience, skills and financial resources available to it to undertake the provision of water services to be provided by the applicant;
  - (e) the grounds upon which the applicant contends that it is a water services intermediary as defined in the Act;
  - (f) a full and detailed description of the water scheme or schemes which will be operated by the applicant containing sufficient information to enable the authority to determine whether the water scheme or schemes complies with the criteria set in section 11 of the Act, these by-laws and the water development plan by the authority in terms of section 15 of the Act, which description shall include, but not be limited to:
    - (i) the name or names of the water scheme or schemes,
    - (ii) an indication of the nature of the water services to be provided by the applicant;
    - (iii) detailed plans or drawings, with co-ordinates and scales, and specifications depicting the physical installation associated with the water scheme or schemes, including all the structures, aqueducts, pipes, valves, pumps, meters or other relating thereto used or intended to be used by it in connection with the provision of water services contemplated in the application;

- (iv) a detailed description, including numbers and locality, of the consumers or potential consumers that will be supplied with water by the applicant;
- (v) details of the source, the quality and quantity of water that will be supplied to consumers or potential consumers and what arrangements are in place to ensure that such quality and quantity is consistently maintained;
- (vi) a business plan setting out how the water scheme or water schemes will be operated and maintained during the period the applicant undertakes the supply of water services as contemplated in the application, and what arrangements have been adopted to deal with any emergency, including natural disasters and drought;
- (vii) a budget describing the financial administration of the water scheme or water schemes, the source of any capital or revenue requirements, and an indication of the sustainability of the water scheme or water schemes; and
- (viii) details of tariffs and charges that the applicant will levy on all consumers and potential consumers, the method of calculating such tariffs and charges, the process whereby increases or decreases in such tariffs and charges will be dealt with, and the manner in which such tariffs and charges comply with the national norm set by the Minister of Water Affairs and Forestry in terms of section 10 of the Act.
- (ix) a certificate indicating who the legal owner or owners of the water scheme or schemes is or are;
- (x) certified copies of all documents and deeds reflecting the legal status of the water scheme or schemes, including deeds of servitude where appropriate; and
- (xi) full details of the conditions that will be imposed in terms of section 4 of the Act and full details required in terms of section 19(4) of the Act.

### **Additional Information to make Decision**

112. (1) The authority may call for any additional information or documents reasonably required to enable it to determine whether the applicant, or the water scheme or schemes will comply with the Act, these by-laws and the water development plan of the authority, and whether the obligations of the authority, imposed on it by the Act, will be met.
- (2) The authority may, and it shall, if it initially decides to refuse to refuse an application made in terms of section 111(1), prior to making a final decision, meet with the applicant and any organisation reasonably representative of the consumers or potential consumers of the water scheme or schemes, in order to hear representations made by the applicant and such representative organisations in support of, or against, the applications, and it shall take such representations into account in arriving at its final decision.

### **Approval of Application**

113. The authority may approve or refuse the application, provided that:

- (a) if it approves the application, it may make such registration subject to such reasonable and relevant conditions as it deems necessary;
  - (b) if it refuses the application, it shall advise the applicant of the reasons for such refusal.
114. (1) In the event of the authority granting such registration it shall deliver a written notification thereof to the applicant and in such notice it shall:
- (a) draw the applicants attention to the provisions of sections 25, 26 and 27 of the Act;
  - (b) draw the applicants attention to the provisions of these by-laws; and
  - (c) set out any conditions referred to in subsection 113(a).

### **Monthly Report**

116. A registered water services intermediary shall submit a quarterly report to the authority providing at least such information as the authority may reasonably require in order to enable it to monitor and evaluate the operation of the water scheme concerned and to satisfy itself that the said scheme is being operated in such a manner so as to fulfil the requirements of Act, the applicable water development plan, these by-laws and any conditions imposed as a condition of registration.

## SCHEDULES

### QUALITY STANDARDS

(See Section 78(1) (a))

#### SCHEDULE 'A'

### ACCEPTANCE OF INDUSTRIAL EFFLUENT FOR DISCHARGE INTO THE SEWAGE DISPOSAL SYSTEM

No industrial effluent shall be accepted for discharge into the sewage disposal system unless it complies with the following conditions. The industrial effluent shall not contain concentrations of substances in excess of those stated below—

Large Works general quality limits are applicable when an industries effluent discharges in a catchment leading to a sewage works of greater than 1 megalitre per day capacity. Small Works quality limits applies for catchments leading to sewage works with less than 1 megalitre per day capacity.

GENERAL QUALITY LIMITS	LARGE WORKS	SMALL WORKS	UNITS
1. Temperature (C)	<44C	<44C	Degrees Celsius
2. pH	6<pH<10	6.5<pH<10	pH units
3. Oils, greases, waxes of mineral origin	50	50	mg/l
4. Vegetable oils, greases, waxes	250	250	mg/l
5. Total sugar and starch (as glucose)	1 000	500	mg/l
6. Sulphates in solution (as SO <sup>4</sup> )	250	250	mg/l
7. Sulphides, hydrosulphides (as S <sup>2-</sup> ) and polysulphides	1	1	mg/l
8. Chlorides (as C)	1 000	500	mg/l
9. Fluoride (as F)	5	5	mg/l
10. Phenols (as phenol)	10	5	mg/l
11. Cyanides (as CN)	20	10	mg/l
12. Settleable solids	Charge	Charge	m/l
13. Suspended solids	2 000	1 000	mg/l
14. Total dissolved solids	1 000	500	mg/l
15. Electrical conductivity	—	400	MS/m
16. Anionic surfactants	—	500	mg/l
17. C O D	Charge	Charge	mg/l
<b>Heavy Metal Limits</b>			
18. Copper (as Cu)	50	5	mg/l
19. Nickel (Ni)	50	5	mg/l
20. Zinc (Zn)	50	5	mg/l
21. Iron (Fe)	50	5	mg/l
22. Boron (B)	50	5	mg/l
23. Selenium (Se)	50	5	mg/l
24. Manganese (Mn)	50	5	mg/l
25. Lead (Pb)	20	5	mg/l
26. Cadmium (Cd)	20	5	mg/l
27. Mercury (Hg)	1	1	mg/l
28. Total chrome (Cr)	20	5	mg/l
29. Arsenic (As)	20	5	mg/l
30. Titanium (Ti)	20	5	mg/l
31. Cobalt (Co)	20	5	mg/l
<b>TOTAL METALS</b>	100	20	mg/l

Special limitations:

1. No calcium carbide, radio active waste or isotopes
2. No yeast and yeast waste, molasses spent or unspent
3. No cyanides or related compounds capable of liberating HCN gas or cyanogen
4. No degreasing solvents, petroleum spirit, volatile flammable solvents or any substance which yields a flammable vapour at 21°C

**SCHEDULE 'B'**  
**ACCEPTANCE OF INDUSTRIAL EFFLUENT FOR DISCHARGE INTO SEA OUTFALLS**

No industrial effluent shall be accepted for discharge into the sea outfall unless it complies with the following conditions. The industrial effluent shall not contain concentrations of substances in excess of those stated below:

SEA OUTFALL QUALITY LIMITS	UNITS	
1. Temperature	44	Celsius
2. pH	5,5<pH<9,5	pH units
3. Settleable solids	2	m/l
4. Oils, greases and waxes of mineral origin	50	mg/l
5. Arsenic (expressed as As)	5	mg/l
6. Cadmium (expressed as Cd)	1,5	mg/l
7. Total chromium (expressed as Cr)	4	mg/l
9. Copper (expressed as Cu)	3	mg/l
9. Lead (expressed as Pb)	5	mg/l
10. Mercury (expressed as Hg)	0,05	mg/l
11. Cyanides (expressed as CN)	10	mg/l
12. Nickel (expressed as Ni)	10	mg/l
13. Zinc (expressed as Zn)	20	mg/l
14. Sulphide (expressed as S <sup>2-</sup> )	1	mg/l
15. Sulphates in solution (expressed as SO <sub>4</sub> <sup>2-</sup> )	250	mg/l