

LOCAL LAW NO. 31 (WATER SUPPLY)

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PART 1 PRELIMINARY

Structure

1. This Chapter is divided into Parts as follows:-

- Part 1 - Preliminary
- Part 2 - Supply of Water
- Part 3 - Installation of Water Meters
- Part 4 - Operation of Water Meters
- Part 5 - Evidentiary Provisions
- Part 6 - Miscellaneous
- Part 7 - Water Reserves
- Part 8 - Private Transport and Supply
- Part 9 - Penalties.

Objectives

2. The objectives of this Chapter are to supplement the Standard Water Supply By-laws so as to provide a legislative framework regulating those aspects of the Council's water supply system not dealt with by the Standard Water Supply By-laws, including in particular, implementation of the objective of metering of all water supplied to users from the Council's reticulated water supply system so that charges for water supplied by the Council (as fixed by the Council from time to time by resolution) may be effectively and accurately levied on the basis of actual water usage.

Definitions

3. In this Chapter:-

- 3.1 "authorised officer" means a person appointed pursuant to section 5;
- 3.2 "multi-unit premises" means the land (and all buildings and structures thereon) contained within a plan registered under the *Building Units and Group Titles Act 1980*;
- 3.3 "standard water connection" means a water service of type and specification adopted by Council from time to time as that which it is prepared to provide to premises for a standard fee;
- 3.4 "water service" bears the meaning given to the term in the Standard Water Supply By-laws but includes, for the purposes of this Chapter (and to the extent, if any, not included for the purposes of the Standard Water Supply By-laws), any meter, wherever situated, other than a meter installed to measure water supplied to an individual unit in multi-unit premises;
- 3.5 "water reserve" means any land owned by or under the control for the time being of the Council which is used or set aside for use for any purpose of or related to the supply of water by the Council and includes any water course or body or source of water that is for the time being under the control of the Council for any such purpose;
- 3.6 subject to section 3.4, any term used which is defined in the Standard Water Supply By-laws bears the meaning given to it by those by-laws.

Relation to Standard By-laws

4. The provisions of this Chapter are in addition to and do not derogate from the provisions of the Standard Water Supply By-laws and any other relevant Act, by law or regulation.

Authorised Officers

5. The Council may from time to time by resolution:-
 - 5.1 appoint officers and other persons to be authorised officers for the purposes of this Chapter;
 - 5.2 make such appointment generally, in which event an officer or person so appointed may exercise all the powers and responsibilities of an authorised officer under this Chapter; and/or
 - 5.3 make such appointment only in relation to particular powers and responsibilities (which must be specified in the resolution by reference to the by-law or by-laws conferring or imposing the same), in which event an officer or person so appointed may exercise any of the powers and responsibilities so specified.

PART 2 SUPPLY OF WATER

Entitlement to Supply

6. Subject to sections 7 and 8 and to this Chapter generally, the Council must provide a water service from its reticulated water supply to any premises within 92 metres of the middle of a road on or within which is laid a water reticulation main upon written request by the owner of the premises but subject to the premises being:-
 - 6.1 situated on an allotment at least one boundary of which runs parallel and adjacent to the main;
 - 6.2 situated such that the path between the water reticulation main and the boundary of the relevant allotment passes over a dedicated public road or a registered water supply easement in favour of the Council; and
 - 6.3 physically situated such that, in the opinion of an authorised officer, the premises can be supplied with water at an adequate pressure by means of gravitation flow from the Council's reticulated water supply.

Physical Impracticality

7. Where the physical character of any land is such that a part of it is situated as specified in section 6.3 and part is not, the Council is not bound to supply water to the part (or any building on the part) which is not so situated.

Application for Supply

8. A person requiring provision of a water service to any premises from the Council's reticulated system must:-
 - 8.1 make application therefor in accordance with the Standard Water Supply By-laws and otherwise in such form as an authorised officer requires from time to time;
 - 8.2 pay to the Council:-
 - 8.2.1 in the case of premises capable of being adequately serviced by a standard water connection, and in respect of which no connection of a different type or specification has been applied for, the standard water connection fee as determined by the Council by resolution from time to time; or
 - 8.2.2 in the case of any other premises, the fee advised to the applicant by an authorised officer as being that applicable to the provision of the required water service to the premises.

Approval of Application

9. Upon receipt of an application and the fee referred to in section 8, and subject to an authorised officer being satisfied as to the matters referred to in section 6, the Council must install a water service to the premises as soon as it is practicable to do so.

Additional Fees

10. Despite section 9, if an authorised officer upon assessment of an application determines that the fee paid by the applicant is incorrect because the premises have been incorrectly assessed as capable of being serviced by a standard water connection or for any other reason, that officer may advise the applicant accordingly and of the further fee required and the Council is not obliged to proceed with the installation of a water service until the further fee is received.

Special Services

11. The Council may, at its discretion and upon application being made as aforesaid, provide a water service from its reticulated water supply to premises other than those referred to in section 6 in relation to which supply the following provisions apply:-
 - 11.1 the Council is not under any circumstances obliged to provide a water service to premises which do not comply with section 6.2;
 - 11.2 the Council may determine that augmentation or extension of its water supply reticulation main is required in order to adequately or practicably provide the service requested in which event it may, as a condition of providing the service, require the applicant to carry out that work at its cost or require the applicant to pay to the Council the cost of carrying out that work, in either case prior to the water service being provided;
 - 11.3 in the event that, by reason of the physical situation of the premises, it is necessary for a pump, private reservoir or any other works other than those ordinarily comprised in a private water service to be provided in order to supply water to the premises at an adequate pressure then, if the Council does elect to provide a water service, the applicant must:-
 - 11.3.1 submit to the Council for approval full details of the design and specification for the works concerned;
 - 11.3.2 construct and install the works in strict accordance with the approved design and specification and any reasonable directions or requirements of an authorised officer;
 - 11.3.3 complete such construction and installation before the water service is connected to the Council's reticulated water supply (the Council being empowered to refuse such connection until construction and installation is complete); and
 - 11.3.4 thereafter be solely responsible for the operation and maintenance of such works,

and, unless the Council shall otherwise approve due to exceptional circumstances, any such works must be constructed wholly within the allotment containing the premises to which the water service is to be provided.

No Multiple Services

12. Unless otherwise determined by an authorised officer for a special or particular purpose, water services shall be installed so as to serve one premises only and no premises will be permitted to have more than one water service installed but this section must not be construed to:-

- 12.1 restrict the ability of the Council to make, levy and recover water charges in respect of each dwelling, tenancy or other identifiable and separate use in premises containing multiple dwellings or tenancies or uses; and/or
- 12.2 prevent the Council from installing, as part of the water service, meters to measure the water supply to each separate dwelling tenancy or other identifiable and separate use in such premises;
- 12.3 derogate from sections 20 to 23.

Ownership and Responsibility

13. Ownership of water supply works, and the respective responsibilities of the Council and property owners for maintenance and repair of water supply works, are governed, subject to the specific provisions of this Chapter and of the Standard Water Supply By-laws dealing with damage to water supply works, by the following provisions:-

- 13.1 the water service is the property of the Council and the supply pipe (together with all internal pipes and fittings) is the property of the owner of the premises; and
- 13.2 the Council shall be responsible to maintain and repair the water service and the owner of the premises shall be responsible to maintain and repair the supply pipe (together with all internal pipes and fittings).

Delay in Installation

14. The Council shall not under any circumstances be liable to an applicant for water supply connection or any other person for loss or damage arising by reason of or from the consequences of any delay in the installation of a water service for any reason whatsoever.

Special Water Supply Fittings

15. The Council may as a condition of providing any water service to premises pursuant to this Part and the Standard Water Supply By-laws require that the service incorporate devices for regulation of the quantity or pressure of water flowing through the service or such other fittings and fixtures of any nature whatsoever as the Council shall consider necessary or appropriate in connection with the supply of water to the premises concerned and any such devices, fixtures and fittings shall, regardless of their physical location, form part of the supply pipe which is the property of the owner.

PART 3 INSTALLATION OF WATER METERS

Universal or Partial Metering

16. The Council may from time to time by resolution determine that the consumption of water at any premises must be ascertained by meter and may:-
 - 16.1 make such determination in respect of all premises within the Area or any particular premises or category of premises (which may be categorised by location, characteristics or use or on any other basis that the Council considers appropriate) or any particular part or parts of the Area including, in any such case, existing connections or new connections or both; and
 - 16.2 from time to time revoke, alter or amend any such determination.

Council to Install Meters

17. The Council:-
 - 17.1 must from time to time determine the type or types of meters to be used within the Area and the manner of installation;
 - 17.2 subject to section 22, must itself install or contract for the installation of every meter; and
 - 17.3 may, make and recover, as a water charge, a charge for the installation of any meter.

Council to Determine Type of Meter

18. An authorised officer:-
 - 18.1 must, if the decision needs to be made, determine the type of meter to be installed at any particular premises; and
 - 18.2 may install a different type of meter at any premises from time to time subject to the maintenance of a proper record of the reading of the replaced meter at the time of replacement.

Location of Meters (Except Multi-unit Premises)

19. Subject to section 22, and otherwise so far as practicable, every meter (and all fittings referred to in section 15) must be installed inside but as close as practicable to, the boundary of the allotment to which the water supply being metered is provided but a meter (and/or such fittings) may be installed at any other position in any case where an authorised officer considers that installation in such a position is the reasonable and practicable course to take.

Special Arrangements for Multi-unit Premises

20. In relation to multi-unit premises:-

- 20.1 the Council may, in the exercise of its discretion under section 16, determine that water charges for multi-unit premises will be determined otherwise than by reference to consumption ascertained through meters installed for individual units; and/or
- 20.2 the Council may apply the special provisions of sections 21 to 23 to facilitate the ascertainment of consumption measured through meters installed for individual units.

Basis of Charging - No Individual Meters

21. If meters are not installed with respect to individual units in a multi-unit development, the Council may nevertheless install a single meter for the premises in accordance with sections 17 to 19 at a point on the common property and, in that event, the provisions following then apply with respect to ascertaining consumption and levying water charges in respect of such premises:-
 - 21.1 a fixed water charge in respect of a specified period may be made and levied in respect of each unit;
 - 21.2 the resolution making that charge may specify a quantity of water as the allowable consumption for the specified period without payment of water charges other than the fixed charge;
 - 21.3 if the resolution does not specify a quantity pursuant to section 21.2, the fixed charge is one only for the service of providing water supply to the unit for the specified period and further water charges are payable in respect of the total consumption at the multi-unit premises (as shown by readings of the single meter for the premises covering that period);
 - 21.4 if the resolution does specify a quantity pursuant to section 21.2, and the total consumption at the multi-unit premises for the specified period (as shown by readings of the single meter for the premises covering that period) exceeds the quantity so specified multiplied by the number of units in the multi-unit premises, further water charges are payable in respect of the excess.

Installation of Individual Meters

22. The Council may, if it does not propose to install meters on a multi-unit premises itself, enter into arrangements with the body corporate of any multi-unit premises for the supply by the Council to the body corporate of meters for individual units and the installation of those meters by the body corporate to measure water supplied to all units in the multi-unit premises at locations approved by the Council and otherwise subject to such terms and conditions as the Council determines. The installation of meters for individual units is in addition to the installation by the Council of the meter on the common property and that meter must remain installed despite the fact that meters are installed for individual units.

Basis of Charging - Fully Metered Premises

23. Where in respect of any period for which water charges are to be levied:-
 - 23.1 meters are installed for every individual unit in multi-unit premises;
 - 23.2 readings of the meter for each unit have actually been obtained by the Council;
 - 23.3 the Council is satisfied that those readings are correct,

the basis of charging specified in section 21 does not apply and instead:-

- 23.4 charges must be levied on the owner of each individual unit in respect of water consumed as shown by the readings of the meter for that until;
- 23.5 in the event that, for any reason, the total consumption at the multi-unit premises for any period for which water charges are to be levied (as shown by readings of the single meter for the premises over that period) exceeds the total of the readings for the individual units, further water charges are payable in respect of the excess.

Explanatory Provisions

24. For the avoidance of doubt:-

- 24.1 the basis of charging specified in sections 23.4 and 23.5 applies only where the requirements of sections 23.1 to 23.3 are fulfilled in respect of every unit in the multi-unit premises and in any other situation, regardless of the reason for non-fulfilment of the requirement, the basis of charging specified in section 21 applies (regardless of the fact that the requirements of sections 24.1 to 24.3 are fulfilled in respect of some units);
- 24.2 nothing in sections 20 to 23 is to be taken to:-
 - 24.2.1 derogate from any right of entry to premises conferred on the Council by law or to prevent such a right being exercised for the purpose of reading a meter installed within an individual unit; or
 - 24.2.2 limit in any manner whatsoever the Council's power under any other law to fix water charges otherwise than by reference to consumption ascertained by meter.

No Supply Except by Meter

25. Where the Council has resolved that the consumption of water at any premises shall be ascertained by meter:-

- 25.1 nothing in this Chapter or the Standard Water Supply By-laws is to be construed as obliging the Council to supply water to those premises otherwise than through a meter; or
- 25.2 the Council may discontinue supply to those premises if the Council is hindered or obstructed so as to be unable to install a meter in an existing water service to those premises.

PART 4 OPERATION OF WATER METERS

Owner Liable for Charges

26. Subject to this Part, the owner of premises to which water is supplied and metered shall be deemed for all purposes to have consumed and shall be responsible for charges in respect of all water shown by the meter to have been supplied to the premises regardless of the use to which such water is put and regardless of any leakage, wastage or misappropriation of water unless the owner establishes:-
- 26.1 in a case where water runs to waste by reason of damage to the water service, that the owner was not responsible for that damage and did not authorise, direct or willingly suffer the damage to be caused;
- 26.2 in other cases:-
- 26.2.1 that water supplied through the meter was misappropriated by some other person and not in fact delivered to the premises; and
- 26.2.2 the identity of that other person.

Testing of Meters

27. The owner of any land supplied with water through a meter who becomes aware that the meter is not operating or who believes that the meter is not registering correctly must notify the Council of that fact and may also by notice in writing to the Council require the Council to cause such meter to be tested. Such notice must:-
- 27.1 specify whether the owner requires the meter to be tested on site (by such method or one of such methods as are approved by the Council from time to time) or removed and tested off site by a recognised testing authority; and
- 27.2 be accompanied by such amount as shall be determined by the Council by resolution from time to time in respect of the type of test requested.

Results of Test

28. Upon compliance with section 27, the Council must cause the meter to be tested by the method specified in the owner's notice. Upon the results of that test being ascertained:-
- 28.1 if the meter is found to register correctly, the fee paid with the owner's notice must be retained by the Council; and
- 28.2 if the meter is found to fail to register or to register incorrectly, it shall be repaired or replaced or another meter placed instead of it at the cost of the Council and the fee paid with the owner's notice must be returned to the owner.

For the purposes of this section, a meter is deemed to be correct if it registers within 2% of the amount which it should register.

Defective Meters - Estimates of Consumption

- 29.** If any meter in use ceases to register or is determined by an authorised officer (whether as a result of a test requested by an owner of land or otherwise) to be out of repair or registering incorrectly then an authorised officer may estimate:-

29.1 the period during which such meter was not in working order; and

29.2 the amount of water used during that period,

using the best information reasonably available to the officer, including (where available) previous meter readings in respect of the premises concerned, and the authorised officer's estimate shall be conclusive as to the period and amount of water used during that period for all purposes relating to the levy, payment and recovery of water rates and charges except in case of manifest error and neither the basis nor method of calculation shall be question on any other ground. If, as a result of that estimate being made, a person has paid to the council more than the water charges actually due, the excess must be allowed as a credit on the next account for water charges.

PART 5 OFFENCES AND EVIDENTIARY

Interference with Meters etc.

- 30.** Any person who damages or in any way interferes with any water meter, or with any device, fixture or fitting referred to in section 15, which is the property of the Council commits an offence. In construing and applying this section:-
- 30.1 the covering over or erection of any building or structure over or placing of any goods or materials over a water meter, device, fixture or fitting in such a manner as to prevent ready access thereto for reading or other purposes constitutes interference therewith;
 - 30.2 the doing of any work or the making of any installation for the purpose of bypassing a meter or otherwise causing water supplied through a water service not to be registered by a meter installed in connection with that water service constitutes interference with a meter notwithstanding that the meter itself is not physically affected;
 - 30.3 the offence created by this section is in addition to the offences relating to interference with an taking water from a main, water service or supply pipe created by the Standard Water Supply By-laws.

Repairs by Council

- 31.** Where there has been any damage or interference to any water supply main, water service or meter or any device, fixture or fitting referred to in section 15 or where there has been any unlawful connection or apparent or attempted unlawful connection to any water supply works owned by the Council then:-
- 31.1 the Council may carry out all such work as it considers reasonably necessary to repair the damage, rectify the interference or remove the unlawful connection as the case requires;
 - 31.2 the costs incurred by the Council pursuant to section 32.1 as certified by an authorised officer and including the labour cost of Council employees and such allowance for administrative costs (not exceeding 20% of the total of other items) as the authorised officer shall determine is immediately recoverable from the person who caused the damage or interference or made or attempted to make the connection (jointly and from each severally if more than one) as a liquidated debt;
 - 31.3 where the damage, interference or connection occurred or was made on or for the apparent purpose of improperly benefiting any land, the costs incurred by Council are taken to be costs incurred in connection with that land for the purposes of section 50(7) of the *Local Government Act 1936*; and
 - 31.4 the Council may remove and take possession of the materials of any unlawful water connection and any demolition materials and any other materials resulting from the taking of action under this section (including materials placed or found on private property) and the property in such materials thereupon passes to the Council which may sell or otherwise dispose of the same in any manner it considers fit.

Taking of Water - Recovery of Charges

32. Where an offence is committed under this Chapter or the Standard Water Supply By-laws involving the taking of water then in addition to the Council's other remedies:-

- 32.1 an authorised officer may estimate the amount of water taken using the best information reasonably available to the officer;
- 32.2 the authorised officer's estimate shall be conclusive except in case of manifest error and neither the basis nor method of calculation shall be questioned on any other ground;
- 32.3 the value of the water taken as so estimated shall be determined by applying the Council's usual charges for supply of water or excess water of the estimated quantity and shall be immediately recoverable from the person who took it (jointly and from each severally if more than one) as a liquidated debt.

Liability of Owner/Occupier

33. Subject to section 34, where an offence is committed under this Chapter or the Standard Water Supply By-laws on or for the apparent purpose of improperly benefiting any land then:-

- 33.1 if the offence is one referred to in section 31 and the Council is unable upon reasonable inquiry to ascertain the identity of the person who caused the damage or interference or made or attempted to make the connection then the Council's remedy under section 31.2 may be exercised against the occupier or (if there is no occupier) the owner of the land and that person is deemed for all purposes of this Chapter to be the person who caused the damage or interference or made or attempted to make the connection; and
- 33.2 in the case of any offence, the occupier or (if there is no occupier) the owner of the land must be convicted of that offence upon proof:-
 - 33.2.1 that the offence was committed; and
 - 33.2.2 of occupation or, as the case requires, ownership.

Limited Defence for Owner/Occupier

34. An owner or occupier is not to be convicted by reason only of section 33.2 if that person proves that:-

- 34.1 he or she is not liable to be convicted otherwise than by virtue of that section; and
- 34.2 the offence was actually committed by some other person; and
- 34.3 he or she has not intentionally taken any benefit or advantage from or by reason of the commission of the offence; and
- 34.4 he or she could not with reasonable diligence have prevented the commission of the offence.

Improper Benefit of Land

- 35.** For the purposes of this Part, an offence is deemed to be committed for the apparent purpose of improperly benefiting land if the commission of the offence results in the Council being unable to effectively record the amount of water supplied to that land or results in water being supplied or delivered to that land otherwise than through a properly functioning meter.

PART 6 MISCELLANEOUS

Owner to Notify of Changes

36. Where the amount of a water rate or charge depends in any manner on the type of development on any land or premises or the use to which any land or premises are put, it is the responsibility of the owner of the land or premises to notify the Council of any change in a matter material to the amount of the rate of charge payable and:-
- 36.1 no refund of or credit for any rate or charge shall be made or allowed unless the change giving rise to a reduced liability for rates or charges has been notified to the Council in writing prior to the commencement of the levy period for which the refund or credit is claimed;
- 36.2 the Council may recover any shortfall in rates and charges not levied by reason of the failure of the owner to give the notice required by this section as a liquidated debt due pursuant to this section and by reason of the owner's default notwithstanding that the time for levying the rate or charge pursuant to the Act may have passed or expired; and
- 36.3 the Council may treat the submission of a building or town planning consent application as notice of change of a material matter for the purposes of this section but is not required to do so and the submission of such an application shall not, in any proceedings for an offence against this section or recovery of monies pursuant to this section, be treated as the giving of notice for the purposes of this section.

Comparison Between Allowable and Actual Consumption

37. In the event that it is for any purpose necessary to determine actual consumption of water at any premises (as measured by meter) during any period in circumstances where and the period or periods covered by meter readings for the premises do not correspond exactly with the period for which actual consumption must be determined:-
- 37.1 the period or periods covered by readings which include the period for which actual consumption must be determined are divided by the total consumption measured for the period or periods to produce an average daily consumption; and
- 37.2 the actual consumption during the period for which the determination must be made is deemed for all purposes to be that average daily consumption multiplied by the number of days in that period.

No Additional Tort Liability

38. this Chapter (together with any relevant provisions of the Standard Water Supply By-laws) is an exhaustive statement of the liabilities and responsibilities of owners and occupiers of land with respect to meters installed on their land and, except as provided in this Chapter, an owner or occupier of land does not owe a duty of care to any person and is not subject to any other liability or responsibility by reason of the fact that a meter is installed on that land pursuant to this Chapter.

Payment for Council Work

39. Where the Council is required or empowered to carry out any work pursuant to this Chapter in connection with the supply of water to premises at the cost of the applicant:-

39.1 the applicant must pay to the Council its notified price for the carrying out of the work as notified to the applicant by the Council prior to the Council being required to commence any work;

39.2 the work must be carried out by the Council as soon as practicable after receipt of payment of the cost thereof.

PART 7 WATER RESERVES

Entry Restricted

40. A person must not enter or be upon any water reserve without the permission in writing of an authorised officer and any person who has been granted such permission must, while on the water reserve:-

- 40.1 comply with the conditions to which the permission to enter is made subject; and
- 40.2 otherwise behave in a quiet and orderly manner so as not to cause any nuisance or disturbance.

Removal of Unauthorised Persons

41. An authorised officer who finds a person on a water reserve in breach of section 40 in any respect may:-

- 41.1 direct that person to leave the water reserve;
- 41.2 if the person does not comply with a direction under section 41.1, enlist the aid of a member of the Police Force who, in addition to all powers under any other law, is hereby empowered to use all such force as is necessary to so remove the person from the water reserve.

Materials not to be Deposited

42. A person must not either directly or indirectly:-

- 42.1 place or leave any material of any nature whatsoever (including, but not limited to, refuse and broken or discarded matters or things and anything capable of causing pollution or contamination) on or upon a water reserve;
- 42.2 bring or take any animal onto a water reserve or allow any animal to remain thereon;
- 42.3 light a fire on a water reserve;
- 42.4 damage or interfere in any way with any fence, building, plant, machinery, works, pipes, pipelines, valves, appliances, powerlines, switches, electrical equipment or any other matter or thing whatsoever installed on a water reserve; or
- 42.5 bathe in or enter in any body of water comprising or within a water reserve,

except with the written permission of an authorised officer in that regard.

Removal of Materials

43. Where any matter or thing is found upon a water reserve in contravention of any provision of this Part and in circumstances where the matter or thing creates any risk of pollution or contamination of the Council's water supply or any risk of interference with the efficient operation of Council's water supply system then, whether any person is prosecuted in respect of that contravention or not, the Council may at any time remove and dispose of the matter or thing in such manner as it sees fit in which event:-

- 43.1 it has no liability of any nature whatsoever to the owner of the matter or thing in respect of such removal and disposal irrespective of the manner of removal or disposal; and
- 43.2 the costs of such removal and disposal incurred by the Council as certified by an authorised officer and including the labour costs of Council employees and such allowance for administrative costs (not exceeding 20% of the total of other items) as the authorised officer shall determine is immediately recoverable from the person who placed the matter or thing on the reserve or, if that person cannot be identified after reasonable inquiry, the owner of the matter or thing, in either case as a liquidated debt.

PART 8 PRIVATE TRANSPORT AND SUPPLY

Licence Required

44. A person must not transport, deliver or supply water for domestic purposes:-
- 44.1 unless the person is licensed pursuant to this Part so to do; and
 - 44.2 unless the water is transported in the transport vehicle described in the licence.

Application for Licence

45. A person who wishes to obtain a licence pursuant to this Part must:-
- 45.1 make application therefore in such form as an authorised officer shall require from time to time;
 - 45.2 supply all information required by the form of application together with any further information required by an authorised officer (either at the time of the making of the application or by requisition issued after the application is received); and
 - 45.3 pay to the Council such application fee as is determined by Council by resolution from time to time.

Consideration of Application

46. Every application which is duly made must be considered by an authorised officer and:-
- 46.1 if the authorised officer is satisfied that the application is one which ought to be approved subject to a satisfactory inspection of the transport vehicle proposed to be used, the authorised officer must advise the applicant in writing of a date, time and place at which the vehicle should be presented for inspection;
 - 46.2 if the authorised officer determines that the application ought not to be approved, the application must be refused and the applicant advised accordingly.

Inspection of Vehicles

47. When a proposed transport vehicle is presented for inspection, an authorised officer must inspect the same with a view to:-
- 47.1 determining the adequacy and condition of the materials of the transport vehicle including all fittings, hoses, pumps, couplings, valves, meters and other apparatus connected to it as well as any internal coatings or linings;
 - 47.2 verifying that the transport vehicle is fitted with an appropriate backflow prevention system to protect against contamination of water supplies by material from the transport vehicle and contamination of water in the transport vehicle by material from a receiving tank.

Approval of Application

48. If the authorised officer is satisfied of the matters referred to in section 47 the officer must then approve the application subject to such reasonable and relevant conditions as are considered to be required and issue a licence containing those conditions and a description of the transport vehicle which may be used pursuant to the licence.

Mandatory Conditions

49. Every licence issued pursuant to this Part is deemed to be issued subject to the conditions following (whether specifically included in any notification to the applicant or not):-
- 49.1 the water tank must not be used for the purpose of transporting anything other than water suitable for domestic purposes;
 - 49.2 water must not be supplied to the vehicle from a source or sources other than those specified in the licence;
 - 49.3 so far as relates to the water tank, the vehicle must be maintained at all times in the condition it was in when inspected by an authorised officer and all fixtures, fittings and attachments connected to the vehicle at the time of inspection must be maintained in proper working order (and replaced immediately if unable to be so maintained);
 - 49.4 the quality of water transported must at all times comply with any standards prescribed pursuant to section 56;
 - 49.5 the holder of the licence must keep a log book recording details of date, source, destination and volume of water delivered; and
 - 49.6 the licence must at all times be kept within the vehicle to which it relates.

Expiry and Renewal

50. A licence issued pursuant to this Part remains in force until the thirtieth day of June next ensuing but may be renewed upon payment of the fee determined by the Council from time to time by resolution prior to expiry or, at the discretion of an authorised officer, after expiry but in any event not later than the thirty-first day of August in any year. An authorised officer may, prior to granting renewal of a licence, require the transport vehicle to be produced for further inspection in which event the provisions of sections 48 and 49 apply with any necessary adaptations as though the vehicle were being produced for inspection prior to granting of a licence.

Inspection and Testing

51. An authorised officer may at any time:-
- 51.1 request a vehicle described in a licence issued under this Part or any other vehicle apparently used to transport water to stop at any convenient and safe place; and
 - 51.2 inspect any part of the vehicle described in a licence issued under this Part or any other vehicle apparently used to transport water (including the taking of water samples).

Change of Vehicles

52. The holder of a licence may at any time notify the council that the holder wishes to alter the description of the transport vehicle contained in the licence and upon:-

52.1 provision of any further details of the substituted vehicle required by an authorised officer (either at the time of the making of the notification or by requisition issued after the notification is received);

52.2 payment to the Council of such fee (if any) as is determined by Council by resolution from time to time for the purposes of this section; and

52.3 an authorised officer being satisfied of the matters referred to in section 47 with respect to the substituted vehicle following presentation of the vehicle for inspection,

the authorised officer must issue the holder with written advice (by way of endorsement on the licence or in any other convenient manner) confirming that the description of the substituted vehicle is contained in the licence and such description is thereafter taken to be contained in the licence accordingly.

Responsibility of Employees

53. An employee of the holder of a licence issued pursuant to this Part does not contravene section 44 by reason only of the fact that the employee is not the holder of a licence but it is the responsibility of any such employee to comply with all provisions of this Part (including all conditions to which the licence is subject and all requirements or directions given under this Part) as though the employee were the holder of the licence.

Responsibility for Offences

54. Where any contravention of or failure to comply with a condition to which a licence issued pursuant to this Part is subject is detected and the person driving or in actual or apparent charge of the transport vehicle concerned is not the holder of the licence:-

54.1 the firstmentioned person is taken to have been responsible to comply with the condition and to have committed the contravention or failure to comply and may be proceeded against accordingly regardless of that person's identity, state of knowledge or authority (if any) from the holder of the licence;

54.2 the holder of the licence is also taken to have contravened or failed to comply with the condition and may be proceeded against accordingly as for a separate offence but the holder is not to be convicted in respect of an offence not actually committed by the holder if the holder satisfies the Court (the onus being on the holder so to do) that:-

54.2.1 the offence was committed without the holder's knowledge, without the holder's connivance and without the holder's consent; and

54.2.2 the holder exercised all such diligence to prevent the commission of the offence as the holder ought to have exercised having regard to the holder's responsibility to ensure compliance with such conditions and all the other circumstances.

Cancellation of Licences

55. In addition to the Council's other remedies, where the holder of a licence commits a breach of any provision of this Part or a breach of any condition attached to a licence, the Council may, whether or not any person is proceeded against for an offence but subject to first giving fourteen (14) days notice of its intention to exercise its power under this section and subject to its giving due consideration to any submissions made by the holder in response to that notice, forthwith by notice in writing to the holder cancel the licence.

Water Quality Standards

56. The Council may by resolution from time to time prescribe minimum standards of quality with which water transported, delivered or supplied for domestic purposes must comply and may from time to time rescind, replace, modify or otherwise vary those standards.

Upon a resolution being made pursuant to this section, a copy of the standards as in force by virtue of that resolution must:-

- 56.1 be made available at the Council's public office to any person for perusal and/or purchase (at a cost not exceeding the reasonable cost of reproduction);
- 56.2 accompany every approval of a licence under this Part given after the resolution is made; and
- 56.3 be forwarded by post to every holder of a licence issued pursuant to this Part at the postal address last notified to Council.

Where resolution under this section replaces, modifies or otherwise varies the standards and a copy of the standards as previously in force has already been supplied to any person pursuant to sections 56.2 or 56.3, it is sufficient compliance with section 56.3 to forward particulars of the replacement, modification or variation without reproducing those parts of the standards not affected by the resolution.

PART 9 PENALTIES

General Penalty

57. Any person who:-

57.1 contravenes or fails to comply with any provision of this Chapter;

57.2 contravenes or fails to comply with any condition imposed on an approval issued or given under or pursuant to this Chapter;

57.3 fails to comply with any requirement or direction notified or given under or pursuant to this Chapter,

commits an offence and is liable to a penalty of FIVE THOUSAND DOLLARS (\$5,000.00) and additionally, in the case of a continuing offence, a daily penalty of FIVE HUNDRED DOLLARS (\$500.00) for each day upon which the offence continues between the earliest date of commission alleged in the relevant complaint and the date of conviction.”.

¹Approved by the Governor in Council on 3 February 1994.

²Published in the Gazette on 4 February 1994.

³Not required to be laid before the Legislative Assembly.

⁴The administering agency is the Department of Housing Local Government and Planning.