



MODEL WATER SERVICES REGULATIONS

Created by WASREB under Section 47 (k) of the Water Act 2002

Purpose: For adoption/adaptation by Licensees under section 73 of the Water Act 2002.

FOREWORD

These model water service regulations are developed as a guideline by WASREB under section 47 (1) (k) of the Water Act 2002.

Water Service Boards are expected to adopt them and the principles therein under section 73 of the Water Act 2002 as the regulations for their service board area. WASREB has endeavoured to make them inclusive of most issues facing water services, however where peculiar circumstances pertaining to Water Services Board are not adequately addressed the Water Service Board shall be expected to adapt those conditions and incorporate them into these regulations before forwarding them to WASREB for approval.

The regulations from the water services boards shall be amended from time with the approval of the WASREB as circumstances change. For the regulations to be effective they must be published in the National Gazette by each water service board and shall operate as regulations in each of the service board areas.

Water and effluent quality are also handled under other regimes of law such as the Environmental Management and Coordination Act, the Public Health Act and the regulations made by the Water Resources Management Authority and care has been taken to cross refer to these regimes. It is also an admission that work needs to be done on harmonisation of regulation relating to water supply and sewerage services. Water Service Boards and their Providers will have to cooperate with other agencies for effective delivery of services.

The National Water Policy of 1999 introduced the principle of subsidiarity in management of water resources, these regulations while governing operations of water services at local level will be subject to the rules that will be issued by the Minister under section 110 of the Act which will govern the licensing of water services boards and the delegation of some of the powers of the regulator to the water services board to facilitate the monitoring of the water services sector.

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THE MODEL WATER SERVICES REGULATIONS

PART I:

GENERAL PROVISIONS

- 0 These Model Regulations are promulgated by the Water Services Regulatory Board pursuant to the provisions of Section 47 (k) as read together with section 73 of the Water Act 2002 and shall be referred to as the Model Water Services Regulations 2007.

- 1 The purpose of these regulations is to provide the procedural and administrative framework for the Water Act 2002 with a view to ensuring that water services in Kenya are developed, conserved, managed and controlled in ways which take into account the following factors :-
 - 0 meeting the basic human needs of the present and future generations,

 - 1 promoting equitable access to clean and safe water,

 - 2 promoting the efficient, sustainable and beneficial use of water in the public interest,

 - 3 facilitating social and economic development,

 - 4 providing for the growing demand for water use,

 - vi. reducing and preventing pollution and degradation of water which is supplied to consumers,

 - vii. meeting local and international obligations,

safeguarding the water services infrastructure.

Waste water disposal in an environmentally friendlier manner

Increasing the awareness by the public of the responsibilities and rights of all players in relation to the provision of water and sewerage service

Defining rights, responsibilities and obligations of Water Services Boards, Water Service Providers and water consumers.

Providing for fines, penalties or restitution in case of offence on either of the parties.

0 These regulations shall govern the relationship between the water services boards, Water Service Providers and consumers of water services and shall constitute the model regulations for the provision of water services in Kenya to be adopted and/or adapted by the Water Services Boards.

1 In these Regulations, except where inconsistent with the context: -
“apparatus” means any equipment used in the provision of water and sewerage services;

authorized” means authorized by or under these Regulations;

“borehole” for the purposes of this regulation means a pit drilled into the ground or well dug for purposes of abstracting ground water;

“building” includes part of a building if that part is separately occupied;

“charges” in relation to the use of water includes fees, levies and premiums of any kind, howsoever described;

“combined service” refers to the provision of water for more than one purpose;

“community water service provider” means a not for profit organisation situated within a defined community that is mandated by that community to provide water services to the community on behalf of the water service board provided that;

- 0 All members of the governing body of the provider are nominated members of the community and are permanently resident within the community in accordance with guidelines issued by the regulator.,
- 1 The area constituting the provider is defined by the Water Services Board.

“construction service” or “connection” includes permanent or non-permanent connections for delivery of water for use during construction of new development or additions to existing improvements, and other construction uses such as grading and compaction, paving and dust control;

“customer” or “consumer” means the owner or occupier of any premises to which a supply of water is maintained by a water services board, or any person entering into a water service provision contract with a Water Service Provider for the supply of water or who is lawfully obtaining water from a Water Service Provider;

“demand management guidelines” refer to the guidelines developed by the regulator for purposes of controlling the amount of water used and/or inculcating water conservation culture on the part of water service providers and the customers.

“Distribution pipe” or “connection pipe” means any pipe leading from a main to the premises of any consumer as far as the boundary of such premises;

“Domestic service” means the provision of water for all purposes permissible under the law except private fire service and construction service;

“domestic use” means every kind of ordinary household use but does not include the use of any boiler, engine or machine connected with any trade, manufacture or business, any mining operations, the flushing of any sewer or drain, the cleansing of any road, path or pavement, or any garden purpose;

“Drains” means that portion of the drainage installation that conveys sewage within any premises;

“drainage installation” means a system situated on any premises and vested in the owner thereof and which is used for or intended to be used for or in connection with the reception, storage, treatment or conveyance of sewage on that premises to the connecting point and includes drains, fittings, appliances, septic tanks, conservancy tanks, pit latrines and private pumping installations forming part of or ancillary to such systems;

“Duty” means taxes or payments demanded by the Kenya Revenue Authority pursuant to the provisions of any tax legislation for the time being in force.

“dwelling” means a building designed or used for human habitation;

“easement” means the right to occupy so much of the land of another as may be necessary for or incidental to the construction or maintenance of works authorized, or in the exercise of rights conferred by a permit, and may include, way leaves for maintenance and provision of social services;

“effluent” means water, liquid, solid or other waste of agricultural, domestic, trade or industrial origin treated or untreated discharged directly or indirectly into the sewerage system, but does not include water course.

“Fire service” includes all service through which water is delivered to private

property for fire protection exclusively;

“ground water” means sub-surface water that fills available opening in rocks or soil materials such that they may be considered waters saturated under hydrostatic pressure;

“gravity main” refers to the drainage of water by gravity

“Incidence response plan” means a time bound activity framework by the water service provider that is supposed to rectify sewer blockages, sewer flooding, water leakages that threaten supply and incidents in water service that are a risk to public health.

“Levy” any charges imposed by the Minister, the regulator or licensees for purpose of funding a particular aspect of water services provision.

“Licencee” means a water services board for the purposes of these regulations.

“limits of water supply” in relation to a water undertaking, by licencees means the limits within which the licensee is for the time being authorized to supply water;

“Main” means a pipe, aqueduct or other work laid by a Water Service Board or any person entering into a service provision agreement with a Water Services Board for a supply of water or who is lawfully obtaining water from a Water Services Board;

“Minimum Service Level” means the service level defined by the Regulator and attached to a Service Provision Agreement to ensure efficient availability, continuity and quality of water and sanitation services provisions for Customers.

“occupier” includes any person who occupies any, or any part of any, land, building, structure or premises without regard to the title under which he or she occupies it or them, and includes any person who, for someone else’s remuneration or reward,

allows a lodger or tenant, or any other similar person, to use or occupy any, or any part of any, land, building, structure or premises;

“owner” means—

0 the person in whose name the ownership of the premises is registered from time to time or his agent;

1 where the registered owner of the premises is insolvent or dead, or for any reason lacks legal capacity, or is under any form of legal disability, that has the effect of preventing him from being able to perform a legal act on his own behalf, 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;

2 where the water service board is unable to determine the identity of the owner, a person who has a legal right in, or the benefit of the use of, any premises, building, or any part of a building, situated on them;

3 where a lease has been entered into for a period of 30 (thirty) years or longer, or for the natural life of the lessee or any other person mentioned in the lease, or is renewable from time to time at the will of the lessee in-definitely or for a period or periods which, together with the first period of the lease, amounts to 30 years, the lessee or any other person to whom he has ceded his right title and interest under the lease, or any gratuitous successor to the lessee;

4 in relation to—

4 a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, the developer or the body corporate in respect of the common property, or

5 a section as defined in the Sectional Titles Act, the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person; or

“penalties” means, with respect to these Regulations, the extra charge levied against

any person who violates any of the provisions of these Regulations or of the Water Act 2002;

“Person” means natural person but also includes a Corporation whether aggregated or sole;

“Polluter pays principle” means the full cost recovery and compensation by the polluter for the treatment of polluting waste discharged into water system or the sewerage system;

“Portable water” means water that is placed in a container, truck or package and is offered for sale for human consumption or other consumer uses by a water vendor;

“**premises**” means any piece of land, the external surface boundaries of which are delineated on—

- 2 a general plan or diagram registered in terms of the Registered Land Act, the Registration of Titles Act.
- 3 A sectional plan registered in terms of the Sectional Titles Act,
- 4 Any other plan in a land register recognised and in accordance with Kenyan law;

“regulatory board” means the water services regulatory board established by the Water Act, No. 8 of 2002;

“sanitation 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 water service board and which may be used by it in connection with the disposal of sewage;

“service” means water provision and/or sewerage connection service;

“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 or communication pipe to serve the water installation on the premises;

“Service provision agreement” means an agreement between a Water Services Board and a water services provider detailing performance targets and the rights and obligations of the parties thereto and which is approved by the regulator to be effective.

“sewage” means industrial effluent, standard domestic effluent and other liquid waste, either separately or in combination, but shall not include storm water;

“ sewer” means any pipe or conduit which is the property of or is vested in the water service board or its authorised agent and which may be used for the conveyance of sewage from the connecting sewer and shall not include a drain as defined;

“Sewerage system” means the structures, pipes, valves, pumps, meters sewers or other appurtenances used in the conveyance through the sewer reticulation system and treatment at the sewage treatment plant under the control of the water service board or its authorised agent and which may be used by it in connection with the disposal of sewage and shall include the sea outfalls;

“ storm water” means water resulting from natural precipitation or accumulation and includes rainwater, subsoil water or spring water;

“subsidised” means—

- 0 a water service which is provided to a customer at an applicable rate which is less than the cost of actually providing the service and includes services provided to customers at no cost;
- 1 an area, determined by the water service board , within which all customers are provided with services from the same bulk supply connection; and
- 2 the receipt, use or consumption of any water service which is not in terms of an agreement, or authorised or approved by the water service board;

“Surveys” shall include studies conducted in a service area under authority of the water service board to gauge willingness to pay, customer satisfaction and demand forecasts

“use” in relation to water contained in or forming part of a water resource, means:-
Abstraction, obstruction or diversion of the water; Discharge of materials or substances into the water; or Any activity of a kind prescribed in these Regulations.

“Waste” includes any substance which constitute scrap material or unwanted surplus substance arising from the application of any process and any substance or article which requires to be disposed of;

“Waste water” means any water which passes from any premises into a tank, pit, drain, or sewer from any closet, bath, wash basins situate or affixed to such premises;

“Water course” refers to stream, river, canal, bed or channel along which water flows;

“Water fittings” includes pipes (other than mains), taps, cocks, valves, ferrules, meters, cisterns, baths, water-closets and other similar apparatus used in connection with the supply and use of water;

“water service” means any service of or incidental to the supply of water or the provision of sewerage;

“Water Service Provider” means a company, non-governmental organization, society, trust or other person or body providing water services under and in accordance with an Agreement with the licensee within whose limits of supply the services are provided, or any other entity providing water services in accordance with the Water Act (No. 8) of 2002;

“Water Services Board” for the purposes of these regulations means a water services board constituted under part IV of the Water Act No. 8 of 2002 and duly licensed by the regulator;

“Water vendor” means any person who is licensed by the water services board and registered with the authorised water service provider in a given area and sells water from his own borehole or point source or purchases water from an authorised water services provider and sells in portable form, which form includes water tankers to third parties in accordance with these regulations.

“wayleave” means permission given to pass over another persons land, ground or property in the public interest;

“works” means any structure, apparatus, contrivance, device or thing for carrying, conducting, providing or utilizing water or liquid waste, but does not include hand utensils or other such contrivances as may be prescribed by these regulations;

“xeriscape” refers to seven horticultural principles that combine climate, compatible vegetation and other techniques to conserve irrigation water.

0 The Model Water Regulations are enacted to provide fundamental reform of the law relating to water services, to repeal water by laws set out

in the first schedule hereto and to provide for all other matters connected therewith.

PART II

RIGHTS AND RESPONSIBILITIES OF LICENSEES, THEIR APPOINTED WATER SERVICE PROVIDERS AND CONSUMERS

0 Types of Service Levels

The Water Service Board and its authorised water service provider may, from time to time, and in accordance with national policy, but subject to principles of sustainability and affordability, by public notice, determine under license issued by the regulator the service levels it is able to provide to customers.

The water service board may in determining service levels differentiate between types of customers, geographical areas and socio-economic areas.

The following levels of service may, subject to subsection (1), be provided by the water service provider on the promulgation of these regulations:

(a) Communal water supply services and on-site sanitation services—

- 0 constituting the minimum level of service provided by the water service provider;
 - 1 consisting of reticulated standpipes or stationery water tank serviced either through a network pipe or a water tanker located within a reasonable walking distance from any household with a Ventilated Improved Pit latrine or other approved sanitary device located on each premises with premises meaning the lowest order of visibly demarcated area on which some sort of informal dwelling has been erected;
 - 2 installed free of charge or on subsidised payments ;
 - 3 provided at a minimal rate or free of any charge to consumers; and
 - 4 Maintained by the Water service provider.
- 0 Yard connection not connected to any water installation and an individual connection to the water service provider sanitation system—
- (i) consisting of an un-metered standpipe on a premises not connected to any water

the characteristics of the existing water source and water supply infrastructure in the service area;

The amount of funds the Water Services Boards (and perhaps the Water Service Providers, under certain arrangements) are ready to commit to capital investment.

- 0 The minimum standard for basic water supply services is:-
- 0 Provision of appropriate education in respect of effective water use;
- 1 Minimum quantity of potable water of 20 litres per person per day or 6 kilolitres per household per month.
- 23 at a minimum rate of not less than 10 litres per minute;
- 24 within 200 metres of a household, and
- 25 With effectiveness such that no consumer is without supply for more

than seven consecutive days in a month.

Provided that the water service providers shall contract to attain the minimum service level in an incremental basis in the service provision agreement.

23 Entitlement to water supply

Subject to the provisions of regulation 10 consumers shall be entitled to water supply upon fulfilling the following conditions:

23 making an application to the Water Service Provider serving the area in which the connection is required; and

23 Executing a contract for the provision of water between the consumer and the Water Service Provider.

23 Duty to initiate water supply

23 Water Services Boards shall determine, the maximum number of business days within which Water Service Providers must initiate service after having received the Applicant's request for service provided that the maximum number of business days within which the Water Service Provider is required to initiate service shall take into account the following:-

a) the specific requirements of the consumer;

0.0 the existing physical connections;

0.1 The capacity of the Water Service Provider to offer piped network service.

0.2 The likelihood that consumers already on the network will have their service adversely affected by the new connection.

0 Provided that where no service is initiated within the prescribed period without reasonable cause, then the water service provider shall be liable to pay such fine as shall be imposed by the licensee.

0 Service connection and system connections

(1) A Water Services Board shall differentiate Service Connections and distribution pipe in terms of:-

- 0 Absolute or relative physical distance of the Applicant from the Water Service Provider's system; or
- 1 Aggregate cost of connecting the Applicant to the system.

(2) Where a community has laid a connection pipe then one year after the Water service provider takes over the area of supply, the water service board shall in consultation with the community determine the method that shall be used by the water service provider to use the facilities to extend service provision.

(3) Where a community has spent its resources in developing infrastructure and there is need for compensation, by new applicants for connections, then an appropriate rate shall be applied, guided by guidelines developed by the water service board and approved by the regulator based on compensation of justified costs and fair value.

0 Denial of Service

Conditions under which Applicants may be denied service shall include:-

- 0 physical , hydraulic and financial conditions that may prevent initiation of service, for Consumers with existing access to "Piped Network Service";
- 1 Consumers failing to uphold payment obligations;
- 2 A failure to uphold such requirements as the Water Services Boards may reasonably impose in other regulations provided they are approved by the regulator.

0 Appeal against denial of service

An applicant who is denied water service for any reason may appeal against the Water Service Provider's decision as described under the appeal provisions of these Regulations and if the Water Service Provider is found to have inappropriately denied service to the Applicant, the Water Service Provider shall under order from the water service board provide the requested service to the Applicant in accordance

with these regulations.

0 Provision Of Service Quality Commensurate With Cost

0 A Water Services Boards shall require, of part of the Service Provision Agreement, that Water Service Provider provide a minimum level of service funded from an agreed business plan but having regard to the following service indicators:-

- 0 adherence to water quality standards
- 1 delivery of appropriate quantity of water to the population served
- 2 Continuity of water supply, provided that where continuous water supply is not available, predictability of water supply shall be ensured by means of:-
 - 2.0 advance notification to Consumers of supply schedules;
 - 2.1 advance notification to Consumers of the start and duration of any planned interruption to service;
 - 2.2 prompt notification to Consumers of any unplanned interruptions or emergencies that may affect them; and
 - 2.3 notification to Consumers of a timeframe for expected resumption of service after an unplanned interruption or emergency.
- 3 Pressure of water at the point of supply;
- 4 Prevention of sewerage blockages and overflows (where Wastewater Service is provided);
- 5 Prevention of flooding or leaks that pose a threat to third party property; and
- 6 Prompt resolution of Consumer complaints and requests consistent with

these Regulations.

A Water Service Provider shall submit to the Water Service Board an annual programme for sampling the quality of water provided by it to its consumers according to the water quality and effluent monitoring guideline issued by the regulator.

The water quality sampling programme shall specify the points at which the water will be sampled, the frequency of sampling and for which substances or determinants the water will be tested.

The results obtained from the testing shall be within the quality specifications issued by the Kenya Bureau of Standards.

Should the comparison of results indicate that the water supplied by a water service provider pose a health risk, the Water Services Board shall immediately notify the regulator and the Consumers of that fact and the measures being taken to address the problem and the timeframe within the problems will be rectified.

Where the water service provider fails to adhere to this regulation a penalty shall be issued for every week of non-compliance until the non compliance is rectified.

0 Circumstances warranting termination of service

A Water Service Provider may disconnect service to a consumer on the happening of any of the following event:-

0 Non-payment of bills more than fourteen days in arrears, provided that the Water Service Provider shall in its bill to a consumers issue the 14 day notice to pay, subject to any modification by the Water Service Board;

1 Unauthorized interference with or diversion of use of the Water Service Provider service;

2 Unauthorized use or theft of water;

3 Refusal to grant access at reasonable times to equipment installed upon the premises of the Consumer for the purpose of inspection, meter reading or

maintenance;

- 0 Failure to reimburse the Water Service Provider for repairs to or replacement of Water Service Provider's property used to supply service, when such repairs or replacements are necessitated by negligence or deliberation on the part of the Consumer;
- 1 Misrepresentation of identity for the purpose of obtaining service;
- 2 Actions adversely affecting the safety of any Consumer, or the integrity of the Water Service Provider's water and/or sewerage systems; and
- 3 Any other reason identified by the Water Services Board approved by the regulator and notified to the consumer.

Situations in which termination is prohibited

A Water Service Provider shall not disconnect a Consumer in the following situations:-

- 0 Delinquency in payment for service by a previous occupant of the premises unless a filial or professional relationship with previous occupant is shown.
- 1 Failure to pay for service or merchandise other than the provision of Water or Wastewater Services provided by the Water Service Provider;
- 2 Failure to pay charges not properly reflected on a Water Service Provider Bill;
- 3 Failure to pay disputed charges, until the Water Service Provider has received a ruling in its favour in accordance dispute resolution mechanism in these regulations.

0 Penalties for provision of poor service

(1) Subject to the provisions of section 73(2) © Water Services Boards, shall determine penalties in the following manner:-

- 23 Wilful: A wilful violation is a violation in which the offender knew that a non compliant condition against quality standards /regulations existed but made no reasonable effort to eliminate it and in which the condition violated a standard or regulation, or the Water Act 2002 a penalty of Kshs 50,000 shall be imposed.
- 24 Serious: A serious violation exists when the offenders non compliance could cause injury or illness that would most likely result in death or serious physical harm, unless the offender did not know or could not have known of the violation. A penalty of Kenya shillings 50,000 shall be imposed .
- 23 Other-Than-Serious: An other-than-serious violation is a situation in which the most serious injury or illness likely to result from a hazardous condition cannot reasonably be predicted to cause death or serious physical harm to employees or consumers. A maximum penalty of Kenya shillings 25,000 shall be imposed.
- 24 De Minimis: De minimis violations are those that have no direct or immediate relationship to safety or health and do not result in citations. A penalty of Kenya shillings 10,000 shall be imposed.
- 25 Other: A violation that has a direct relationship to job safety and health, but is not serious in nature, is classified as “other” and the maximum penalty shall be Kenya shillings 10,000.
- 26 Failure to Abate: A failure to abate violation exists when the offender has not corrected a violation for which a citation has been issued either by the water service board or the regulator and the abatement date has passed and the penalty issued shall continue until the failure is corrected.
- 27 Repeated: An offender may be cited for a repeated violation

which shall be more punitive in nature if that offender has been cited previously for a substantially similar condition and the citation has become a final order of either the Water Service Board or the regulator.

(2)Administrative measures or financial penalties may also be imposed on Water Service Providers for violation of any of the Service Quality Indicators according to the provisions in the service provision agreement or in these Regulations and will depend on ;

- a) The nature and severity and repetitive nature of any penalties imposed;
- 23 The recipient of the penalty payments.
- 24 The regulator's consent.

0 Payment of applicable fee

Upon payment of the applicable fees and charges and completion of appropriate forms, the water service provider shall furnish, install and/or maintain the service laterals and the water meter. Provided that;

- 0 The applicant for water connections shall pay such charges as shall be levied in accordance with these regulations.
- 1 The cost of repairing water facilities damaged by third parties shall be at actual labour, material, equipment and field overhead costs plus a fee to be determined by the licensee for the cost of general water utility overhead and processing for each incident. This charge may be waived at the licensee's discretion.

0 Exemption of community based providers

Water service providers who are Community based may be exempted from some of the requirements for Water Service Providers subject to such terms and conditions as

shall be prescribed by the Regulatory Board.

Provided that no such exemption shall be lawful unless it complies with section 56(1) of the Water Act 2002.

0 Obligations of water service providers

All Water Service Providers shall be under an obligation:-

- 0 to supply potable water and provide for the effective and sanitary removal of Sewage in an incremental manner in the area contracted out in accordance with the relevant standards and guidelines issued by the regulator;
- 1 to open a revenue account in a bank account set up to receive all funds collected from Customers from water service sales and which account shall:
 - 0 Jointly be run by one or two employees of the providers whose signature will be required to authorize any payment from the account.
 - 1 To only pay out of its funds the regulatory levy, the licensee remuneration levy and the service provider income all of which shall be paid monthly and run the accounts according to guidelines issued by the regulator.
 - 2 On reasonable notice be accessible to the regulator and the water services board to receive statements of deposits, withdrawals, and the balance of the Revenue Account, from the bank at which the Revenue Account is held, at any time on a day the bank is open,.
 - 3 Where a surplus is generated the surplus (revenue minus payment and costs) shall be placed in a Contingency fund.
- 0 To open a deposit account that shall be used to receive customer deposits upon the initiation of service and to refund customers their deposits after termination of service.

- 0 To prepare and submit to the water services board a Service Needs Plan which shall be updated every three years and shall include:
 - 0 Description, by service and area, of current demand and supply;
 - 1 Ten (10) year projection, by service and area, of growth in demand and supply;
 - 2 Projection of the Service Shortfall if the Facilities are not rehabilitated, renewed, or extended, by year, area and service, for the next ten (10) years;
 - 3 Set of indicative options for Asset Development which could remove the service shortfall by ensuring demand in the area is met for the next ten (10) years;
 - 4 Recommended set of Asset Developments which would efficiently and effectively meet demand in a 5 year capital works plan;
- e) To create and implement an Asset Management Plan and Procedures for Maintenance Services to provide for the efficient routine and preventative maintenance of the assets and Facilities in Accordance relevant guidelines issued by the regulator.
 - 0 To undertake major repairs and assets when it can be shown that the major repairs are necessary due to the failure of the Water Service Provider to fulfill its obligations of maintenance or repair of those relevant assets.
 - 1 To maintain and update a Detailed Asset Register of existing assets, including a full inventory and value.
 - 2 To ensure all necessary technical, commercial, financial and administrative functions are performed in a commercially oriented manner and the service is provided according to cost recovery principles set out in the tariff adjustment guideline issued and benchmarks set by the regulator.
 - 3 To obtain a tariff approval from regulator before charging tariffs to

customers and apply for tariffs according to guidelines issued by regulator. and to obtain all necessary licenses, permits and warranties under law to carry out its obligations under the required statutes;

- 0 to make arrangements to engage services of competent employees as it may require to perform its obligations under these Regulations and as recommended from time to time by guidelines issued by the Regulator.
- 1 To ensure that employees who have contact with the public shall have identification documents, to be produced on demand.
- 2 To ensure that qualified and certified personnel are employed for tasks that have a risk to health or to the safety of the persons and to the public at large.
- 3 To ensure that there is a training programme in place to enhance the skills and competency of its officers so as to meet the standards set in the National Water Services Strategy;
- 4 to ensure that restricted operations personnel are subjected to medical examinations at intervals of not more than three (3) months or as may be required in the relevant Regulatory board Guidelines in the circumstances of outbreaks of water borne disease or infection and whether personnel is suffering from any water or sewerage - borne or water related diseases.
- 5 to provide adequate working capital and other financing through efficient billing ,collection and incremental connections at all times to enable it to fulfil all its obligations and, in particular, to

provide the services in the service provider's area of operation as defined in its service provision agreement;

- 0 to provide, maintain and routine upgrade any software or information systems required;
- 1 to obtain an appropriate insurance cover for the agreement period with an insurance company of repute against claim, losses, damages to assets, accidents, injury or death which shall be forwarded in copy to the licensee;
- 2 Subject to regulations issued by the Water Resources Management Authority to become a member in and participate in the activities of a the water resource users association.
- 3 To comply with the Environmental Management and Coordination Act, and any other applicable environmental, occupational health or safety legislation.

Rights of water service providers

The Water Service Provider shall have the right:-

- An exclusive service area for service provision.
- To a service provider income which shall be drawn from the revenue account.
- To carry out disconnection of services to properties for non-payment and abuse of water and sewerage services;
- To enter premises and properties within the service area, to inspect protect and enforce the provisions of these regulations.
- To access the service recipient's area as it deems appropriate to make arrangements for the commencement of its obligations pursuant to these Regulations;

Subject to these Regulations to abstract water and control discharges to sewers and make discharges to watercourses;

To manage, use and operate assets without undue interference according to guide lines issued by the regulator.

Under a delegated works agreement with the Water Services board and for a fee to carry out capital works rehabilitation and expansion; Provided that the Water Service Provider shall set-off this fee against the Licensee remuneration levy if after notice the fee has not been paid.

In case of a major breakdown during emergencies the to carry out repairs speedily to minimize the inconveniences to and where the Service Provider is not responsible for the cost of the works it undertakes, to have such costs reimbursed by the Water Services board after furnishing the Water Services Board with a detailed breakdown of the costs incurred in carrying out the works.

Subject to these Regulations to take legal action for breach of obligations by Consumers and other persons causing damage or adversely affecting the services;

Following due notice to and approval of the licensee, to contract out services including management, administration and repair and maintenance to independent contractors but the provider shall remain responsible to the licensee for the provision of water services of the standard herein stipulated.

Obligations of water service boards

The Water Services Board shall be under an obligation to:-

- a) Coordinate with Water resources management authority the issue of

permits for all abstractions in its area, to ensure the viability and opportunity for growth for appointed Water Service Providers.

To ensure that all water service facilities and infrastructure are issued with secure title in the case of land and all other facilities and infrastructure are properly secure and protected from infiltration by third parties.

Make all reasonable efforts to assist the Water Service Provider to gain access to viable assets or to land on which it is required to exercise its duties provided that where access cannot be obtained even with the assistance of the licensee, and there being no fault or negligence on the part of the Service Provider, the Service Provider shall not be considered to be in default of its obligations under this agreement;

In the event that the Service Provider fails to maintain or repair the works necessary for the provision of Services and if appropriate for reasons of public safety or for efficient delivery of Services, to undertake, at the Service Provider's expenses, any works required to remedy the situation, subject to giving of a ten (10) days notice to the Service Provider.

To review the Proposed Service Needs Plan and the Capital Works Plan, and prepare in consultation with the Service Provider, an Agreed Capital Works Plan, which will be used to increase access of water services in its region.

To Finance and implement Capital Works Plan and develop and rehabilitate all facilities by itself or under a delegated works agreement with a Water Service Provider.

To pay for the delegated works or agree to set off the cost of the

delegated works with the licensee remuneration levy.

Arrange for the carrying out of surveys to improve service provision in its board area and review and discuss and approve the annual budget , strategic, business and the annual service plans for water service provider and ensure that they fit into its plans;

Consult with Consumers and stakeholder in its area on improvement of service quality and other issues touching on Consumer care;

Prepare studies of demand forecast and expansion of the water service supply systems;

acquire land for the purposes of expansion of water services ;

Carry out an environmental impact assessment whenever it is appropriate or required by legislation;

Obtain and keep in force all licenses, permits and warranties outside the responsibility of the Water Service Provider;

Inspect and monitor the water service facilities and operations of all water service providers to ensure compliance with the prescribed regulations, guidelines and standards applicable.

Give the Water Service Provider full access to all necessary information, maps, plans, policies, papers, reports and data in order to enable the Service Provider to carry out the services and assist the Service Provider to obtain, from the government, local government or statutory bodies, all necessary consents and permits as required by all relevant laws and regulations relevant to its business;

Take steps to ensure that where water services usually provided by or on its behalf are interrupted for a period of more than forty eight hours by reason of planned or unforeseen circumstances:
Every consumer shall have access to alternative water services.

A public notice shall be issued and widely circulated as to the cause of the service interruption, the expected length of time it is expected to remain unabated and where alternative sources of water services may be obtained.

Duties of consumers

A consumer shall be under an obligation:

to provide space for and to exercise reasonable care to protect the meter and other properties of the Water Services Boards or Water Service Providers as may be installed within or near the premises;

to exercise reasonable care to prevent pollution of the water and where pollution occurs out of circumstances beyond his control or otherwise, to pay reasonable compensation to the Water Services Board in accordance with established methods and procedures quantifying the cost of decontaminating the facility or water course

to pay such charges for the supply of water or for the use of the sewerage system as may be prescribed by the Water Service Provider;

to ensure reasonable access to the meter to facilitate ease of reading by the Water Service Provider or their agents;

to install and maintain the consumer's piping and installations which

shall adhere to the standards set and shall promote water conservation retrofit to ensure water fittings in safe and efficient manner in accordance with these Regulations;

in the event of loss or damage to the property used by a Water Service Provider on his premises caused by negligence or wrongful act on his part or on the part of his servants, or agents, to compensate the or the Water Service Provider, for the cost of necessary repairs and/or replacements.

Provided that such costs may be added to the consumer's bill and if not paid after the expiry of due notice given, then service may be discontinued.

- 0 Ensure that water purchased from registered water vendors and water service providers is handled hygienically to avoid contamination.

Requirements of reporting

The Water Service Providers shall make a report of their operations every three (3) months and every twelve months for presentation to the water service board and the Regulatory Board. Provided that:

The annual report shall be submitted within three months after the end of the financial year and not later than 30th September of each financial year.

The Annual Report to the Licencee by the service provider shall, be presented on a yearly basis, not later than three (3) months following the end of the Financial Year, comprising a Technical Report and a Financial Report as follows:

Technical Report: The format and content of the Technical Report shall be as agreed from time to time with the Licensee. As a minimum, the report shall include the following:

Volume of water (Abstracted, produced, distributed and sold);
Where applicable, volume of Sewage carried in the Sewers and treated in the Sewage treatment works;

(iii) Numbers and categories of Customers;

0 Number of Personnel employed;

1 Levels of Service performance and commentary with specific reference to the Performance Targets and the Key Performance Targets;

2 Water quality compliance results and commentary;

3 Where applicable, treated Sewage quality compliance results and commentary;

4 Profitability, billing ratio;

5 General development of works;

6 Renovation works and Repairs carried out or to be carried out;

7 Exceptional events e.g. water shortages, major bursts, pollution incidents.

Financial Report will show separately for each of the water and sewerage cost centres, as set out below:

- 0 manpower costs and other costs of employment;
- 1 power;
- 2 chemical costs
- 3 local taxation, including property taxes (if any);
- 4 water charges (including Abstraction charges and discharge consent charges);
- 5 inventory for water service materials and Consumables;
- 6 hired or contracted services;
- 7 charges for bad and doubtful debts;

- 8 depreciation and amortization (where charged);
- 9 tangible assets and written-off infrastructure expenditure (analyzed by - Repairs, renovations, and replacements); exceptional items; and
- 10 all other operating costs (on an aggregated basis);
- 11 an analysis of the total turnover under the following headings:
 - 0 water supply Abstraction, treatment, transmission and distribution;
 - 1 Sewage collection, treatment and disposal; and on an aggregated basis.
- 12 A certificate to the effect that, in the opinion of the Board of Directors of the Service Provider, the Service Provider shall have available to it for at least the next twelve (12) months:
 - 1 Sufficient financial resources and facilities to discharge the activities and functions, powers and duties relating to the Services business; and
 - 2 The management resources which are sufficient to enable it to carry out such activities and functions.

Six months after the end of each financial year the water service provider shall submit an audited set of accounts prepared in accordance with guidelines issued by the regulator with an analysis of total operating costs (including interest and taxation) of the business.

The quarterly reports shall be submitted thirty (30) days after the end of each quarter.

Water Service Providers shall install and operate the water services sector regulation information system as shall be established by the regulator for purposes of implementing the provisions section 50 of the Water Act 2002.

In order to capture information for purposes of water regulation information system, a water service providers shall have the responsibility to collect, enter, validate and submit data, whether in electronic export file, or compact discs or otherwise, as provided in the Reporting Guidelines prepared by the Regulator.

The annual reports shall be a true reflection of the accounts of the records held by the water service provider submitting the same, provided that where any error is detected therein after submission, then such error shall be immediately corrected with notice to the regulator.

Any want of compliance with the provisions of this regulation shall be an offence punishable, under the Water Act 2002 and any rules there under in addition to the penalties prescribed under these regulations.

PART III
SERVICES CONNECTIONS

Application procedure

- 0 All Water Service Providers shall prepare and maintain a standardized form to be completed by applicants desiring service.

- 1 The form described in paragraph (1) above shall be written in such language as shall be easily understood by the consumers and shall stipulate:

the nature of the service to the consumer

the standards accepted for effluent discharge

terms and conditions on which those services are provided

methods, procedures and modes of payment by consumers

the right of the Water Service Provider to disconnect service for non-payment

The right of the Water Service Provider to seize water related assets for non-payment of undisputed bills.

right of the water service provider to recover by summary procedure any undisputed bill.

The right of the Water Service Provider to set-off the undisputed bill where the consumer is a public entity.

liability for payment of charges even after ceasing to occupy the premises

Customer service standards.

Effect of application

The application shall take effect upon the submission by the consumer of completed application form, requirements and a duly signed consumer contract to the Water Service Provider.

Confidentiality of information

Subject to the provisions of any law all information provided by the applicant shall be treated with confidentiality.

Placement of water service connections

- 0 Depending on the circumstances of provision water service connections shall front the individual parcels of land that they serve and shall be constructed within the public right of way or within such easements as shall be determined by the Water Services Board with the physical planning laws, provided that:
 - 0 More than one water service connection per parcel shall require advance approval by the licensees or its agents and may require the installation of approved backflow prevention assembly.
 - 1 When the water meter cannot be reasonably located in the public right of way, the water meter shall be installed one (1) metre within the plot boundary or as as shall be agreed upon by the consumers and the Water Service Provider.
 - 2 No rent or other charge shall be levied against the water service provider for water service connection which must be located on the consumer's premises.
 - 3 Meters are to be housed in a chamber secured by the owner of the premises.
 - 4 New water service connections and fire hydrant connections will not be allowed from mains larger than three hundred (300) millimetres

in diameter.

- 1 The Water Services Board shall own and maintain all water service connections up to and through the rear water meter whether located on private property or in the public right of way, and will have a right of access for such actions provided that the water service board may delegate any of its powers and responsibility to install or maintain water service connections to a water service provider on such terms as to costs or otherwise as may be determined by the Water Service Board with the consent of the Regulator.

Recoverability of the cost of service connections

The Water Services Board shall:-

- 0 Allow Water Service Providers to recover all or a portion of the cost of Service Connections through a separate Connection Charge; and
- 1 Require that Water Service Providers publish as part of the Consumer Contract the manner in which connection charges will be assessed, including, if appropriate, a schedule for Consumer payment of connection charges over multiple billing periods.
- 2 Compensate, on a pro rata basis, justified costs to a customer who had met part or the whole of the initial cost of laying the distribution pipe where other customers are subsequently connected, as long as records are clear on the resources spent.
- 3 Repair any major, visible or reported leak in its water services system within 48 hours of becoming aware thereof.

Maintenance of apparatus

The consumers shall at his own expense and risk furnish, install and maintain all

apparatus and appliances which are required to receive, control, regulate and utilize the pressure and flow of water as required by the Water Service Provider and the Water Service Provider shall not be responsible for the improper installation, maintenance or malfunction of such apparatus or for the damage or inconvenience occasioned by the misuse of the water after it has left the water meter nor for the damage caused by the turning on or off of water by the licensee or its agent.

Limitation of static water pressure

When static water pressure inside a building is in excess of 25 meters of water column, an approved type of pressure regulator and pressure relief valve shall be installed and properly maintained by the water service provider so that the water pressure is reduced to 25 meters of water column or less.

Access to water service connections

It shall be the consumer's responsibility to maintain free and clear access for the Water Services Board or their agents to all water meters, water meter vaults, backflow prevention, assemblies, fire hydrants and water facilities supplying his premises, and in any case where misuse of water is detected, the Water Service Provider shall have rights of access beyond the meter in order to disconnect the supply and remove the offensive apparatus.

Tampering with water service connections

0 All water service connections are vested in the Water Services Board, only the Water Services Boards or their authorized agents, shall be permitted to connect or disconnect the service lateral to the main or to turn the service on or off at the water meter. Any unauthorized tampering with the water service connection shall:

0 be an offence punishable by a fine not less than one hundred thousand shillings or to imprisonment for a period of not less than three months or both; and

- 1 Where water supply to a customer has been disconnected on account of tampering with service connections, the supply shall not be reconnected until all the charges, and penalties levied therefore shall have been paid by the customer.

- 1 The consumer shall compensate the Water Services Board or its agent for any and all damage to water service connection which is caused by the carelessness or negligence of the consumer. The amount of compensation to be fixed by the licensee shall be the actual cost of repairing the damage increased by 10%.

Connection fees

All consumers residing in the area of supply of a Water Service Provider and to whom the Water Service Provider provides water services shall be liable to pay a reasonable fee approved by the Water Services Regulatory Board with respect to the installation and/or connection, as the case may be and in accordance with the meter reading as per the agreement between the Water Service Provider and the consumer.

All Water Service Providers shall be under an obligation to remit fees to the Water services Board responsible in their area of supply as contained and agreed upon in the Service Provision Agreement.

Contents of application form

- 0 An owner or occupier of any premises within the limits of supply of Water Services Board who requires provision of water services from the works of such Water Services Board shall formerly make an application in writing through Application Forms to be provided for by the Water Service Providers.

The Application Form shall require at least the following particulars:

-

- 0 Applicant's full descriptions and location of the proposed area of supply;
- 1 Applicants previous connections if any
- 2 Applicant's intention to be supplied with water services including infrastructure for ease of the provision of the services;
- 3 Applicants personal identification Number;
- 4 Times appropriate for the respective Providers to install and to read the meters connected to the applicant;
- 5 Undertaking from the providers to be accessing the consumer's premises for meter-reading at the agreed times during normal working hours, in uniform and thereby providing full identification as agents of the Water Service Providers;
- 6 Payments required including any deposits to be paid, connection fees and annotated user charges and other related information;
- 7 Clear indication as to the exact address and frequency of bill collection;
- 8 Undertaking from both the providers and the consumers not to terminate the others' services without prior Notice in writing one month in advance
- 9 Provided that a consumer who is temporarily vacating his house or premises for a period of at least one calendar month may terminate his liability to water charges under these Regulations by giving a Water Services Board and or its contracted Water Service Provider seventy two hours notice in writing;

Where the consumer is a tenant the landlord of premises shall be the guarantor and full details of such guarantor, and provision for the guarantor to sign to guarantee payment. Otherwise the guarantor shall be a customer whose account is in good order;

Any further information as the Water Service Providers may require.

Deposits

0 A deposit to be determined by the Water Service Board and approved by the Water Services Regulatory Board according to the tariffs in force shall be paid by the consumer to the Water Service Provider prior to the provision of water services;

1 Such deposit paid shall be refunded upon written application to the Water Service Provider when contractual services are terminated or end, which refund shall only be payable where all the accrued bills have been paid.

Provided that any and all such fees charged shall be included in the Application Form filled in by the consumer and accepted by the Water Service Provider

Prohibition of more than one connection pipe to water supply system

Only one connection pipe to the water supply system may be provided for the supply of water to one parcel of land, irrespective of the number of accommodation units, business units or customers located on such premises.

Where the owner, or the person having the charge or management of any premises on which several accommodation units are situated, requires the supply of water to such premises for the purpose of supply to the different accommodation units, the Water Service Provider may, in its discretion, provide

and install either—

- 0 a single measuring device in respect of the premises as a whole or any number of such accommodation units; or
- 1 a separate measuring device for each accommodation unit or any number thereof.

Where the Water Service 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, as the case may be—

- 0 must install and maintain on each branch pipe extending from the connection pipe to the different accommodation units—
 - 0 a separate measuring device; and
 - 1 an isolating valve; and
 - 2 will be liable to the Water Service Provider for the charges for all water supplied to the premises through such a single measuring device, irrespective of the different quantities consumed by the different customers served by such measuring device.

Where premises are supplied by a number of connection pipes, the Water Service Provider may require the owner to reduce the number of connection points and alter his water installation accordingly.

Provided that the implementation of this regulation by the water service provider shall require close monitoring by the Water Service Board to ensure that individual consumers are not discriminated against by this regulation.

Abandoned and reactivation of abandoned accounts

Where a Consumer's account remains dormant for six months, such an account shall be said to have been abandoned, the reinstatement of which shall attract a reconnection fee to be determined by the water service provider, or other fees as approved by the Water Services Regulatory Board and the account shall not be reconnected unless and until all pending bills are paid.

Determination of size and type of connection

(1)The Applicant for the provision of water services shall be responsible for the payment of all connection charges together with payment of all water used from the time of initial service installation.

(2)The Water Service Provider reserves the right to determine the size and type of service connection that is to be installed.

No approval shall be made of any service connection of a size larger than that which can be supplied by the main without adversely affecting service to other Consumers.

Compliance with other regulations in laying service connection

Subject to relevant laws and regulations when, for the purpose of executing any work, a Water Services Board or its contracted Water Service Provider breaks open or intends to break open any road, sewer, drain or tunnel, he shall:

pay the local authority or the public entity concerned the total calculated cost of repairing the road ;or
with all convenient speed and to the reasonable satisfaction of the person having the control or management thereof, complete the work and fill and consolidate the ground and reinstate and make good the road, sewer, drain or tunnel as the case maybe and remove all rubbish resulting from his operations, and shall, after replacing and making good the road, keep

it in good repair for three months and such further time, as stipulated in those laws and regulations as the soil may continue to subside.

- 0 Use micro tunnelling so as not to interfere with the road, sewerage or drainage but shall make provision for soil subsidence.

Notice of intention to lay service connection

Subject to relevant laws and regulations, Water Services Board or their agents shall give a fourteen (14) day notice of its intention to open a road, sewer, drain or tunnel to lay a service connection, and of the time when it proposes to commence the work, to the person having control or maintenance of such road, sewer, drain or tunnel, provided that in cases of emergency and with the consent of the regulator, such notice may be dispensed with.

Separate contracts for network expansions

Subject to any laws and regulations The Water Services Boards and their agents may develop a separate contract to establish the terms and conditions under which Consumers may be required to pay charges for all or a portion of water service Network Extensions, including terms if any for refund of these charges as other Consumers make use of the Network Extension.

Illegal taking of water

Any person who from the onset illegally and unlawfully takes, uses or diverts water from a reservoir, water course, conduit, pipe or other works belonging to a water services board and or its contracted Water Service Provider, or from a pipe leading to or from any such reservoir, water course, conduit, pipe or other works, or from a cistern or other receptacle containing water belonging to a water services board and or its contracted Water Service Provider or supplied by it for the use of a consumer, liable to pay a penalty of Kshs 50,000 to the water service provider and should he fail to do so, shall be guilty of an offence under these regulations and

liable to the prescribed sanctions under these regulations.

Use of water for unauthorised purpose

Any person who, having from a Water Services Board and or its contracted Water Service Provider a supply of water otherwise than by meter, uses any water so supplied to him for a purpose other than that for which he is entitled to according shall be guilty of an offence and shall be liable to punishment as prescribed by these regulations.

Unmetered connections

(1)Where on the commencement of these regulations consumers have an un-metered supply of water from the water service provider, the consumer shall pay the water bills charged by the water service provider in accordance tariffs approved by the regulator.

(2)The water service provider shall ensure that all connections shall be metered within one year and shall provide a report to the water service board and the regulator on the progress with the provisions of this regulation charge.

Reading of water service equipment

(1)Reading, removal, inspection and replacement of all equipment shall be the responsibility of the Water Service Providers and shall be duly carried out to ensure that the entire supply of water to the consumers premises at all times can be accurately measured.

(2)The water service board shall with the approval of the regulator encourage the use of appropriate technology by the Water Service Provider that allows consumers to use prepaid devices to regulate their water consumption.

PART IV

TEMPORARY OR SUPPLEMENTAL SERVICE

Duty to provide temporary service in certain circumstances

All service required for less than twelve months (12) shall be temporary and such connections shall be metered.

- 0 The Water Services Board may supply services for temporary purposes, provided that the Water Services Board is in a position to provide the services sought and provided also that it has available materials and equipment necessary to supply the said service.
- 1 Each applicant for a temporary service shall pay in advance to the Water Services Board, the cost of labour and materials, less salvage value on removal, for installing and removing such service.

Temporary service of more than 12 months to be reported

Where temporary service is required for a period of time exceeding twelve (12) months, then the Water Services Board shall consider the application thereof or provide the service and make a report and seek authorisation from the regulator on the need of such a temporary service.

Right of appeal

Where the Water Services Board (in case of temporary connection for less than twelve (12) months) or the regulator (in case of temporary connection for more than twelve (12) months) refuses to supply an applicant with a temporary connection, the reasons for refusal shall be given in writing and the applicant shall have the right of appeal to Water Appeals Board against such decision.

Charges and fees

The applicant shall pay to the Water Service Provider such fees and / or charges for

the temporary service as shall be prescribed by the regulatory board.

Security for temporary service

- 0 Any applicant for temporary service shall pay deposits prescribed by the Water Services Board with the approval of the Regulator, as security for non-payment of the bills or charges that may accrue.
- 1 The Water Services Board may refuse to provide the temporary connection unless and until the requisite deposit is paid.

Supplemental service

The foregoing Regulations governing the temporary service shall apply in the same way to supplemental service.

PART V

METERING AND METERS

Metering access

Subject to the provision of any agreement between the Water Service Provider and the consumer, all meter readings shall be within the normal working hours indicated by the water service provider.

(2) The Water Service Providers shall have unlimited access at the times stipulated and shall not be inhibited by the consumer, his personal representatives or agents.

Provided also that any inhibition of access to the meters by the consumer shall constitute a criminal offence punishable in accordance with these regulations.

The consumer shall be responsible for costs of replacing the theft and vandalism of meters.

Installation of meters

(1) Meters shall be installed at the agreed times in accordance with the Application Form and shall be done by a practitioner licensed under rules made by the Minister under section 110 of the Water Act 2002 and the material used should be according to the standards set by that the Kenya Bureau of Standards and notified by the regulator.

(2) The Meters shall be installed in a location that is easily accessible for reading by the Water Service Provider personnel or their agents, and agreeable to both the Water Service Provider and the Applicant; provided, however, that the Water Services Board shall, upon referral from either the Water Service Provider or the Applicant, determine the location of the meter if the Water Service Provider and the Applicant are unable to agree on the location of the meter;

(3)A Water Service Provider, in its discretion may, permit the installation of a combination of two or more meters to serve a single distribution system on connected premises if the combined capacity is at least equal to the anticipated service demand of the premises served. Provided that meter used in multiple setting must be of similar standards

Specification of meters

- 0 All such equipment or facility acquired by the Water Services Boards shall be of such quality as shall be prescribed by the Kenya Bureau of Standards and approved by notice by the Regulatory Board and shall in the same right be branded in a manner distinct to the Water Services Board owning the same.

- 1 Specifications for meter setting, meter pit materials, installations of meter pits, vaults or inside settings, and automatic meter reading devices, shall be prescribed according to the counters or standards prescribed by the Kenya Bureau of Standards, including but not limited to such standards as necessary to provide for prior approval of meter settings, location before installation, set to finished grade, and measurement of entire flow of water.

Maintenance of equipment

The Water Service Providers mandated with the duty to maintain all assets and fixtures of the respective Water Service Boards shall keep a maintenance schedule and, in their maintenance ensure the proper working of the meters and shall in that right repair and/or replace any faulty equipment whether or not in their possession provided that the same has not been altered or tampered with in any way.

Testing of equipment

(1)In carrying out its mandate as provided for under these Regulations, A Water Services Board through its contracted Water Service Providers shall randomly test

the equipment and/or facilities or any other water fittings used in connection with water supplied by it, with or without notice, to keep them in good working condition at all times.

Provided that the testing shall at all times be done during regular working hours as provided for in the Application Form.

The Water Services Board shall specify the terms under which Consumers may request to have their metering equipment tested by the Water Service Provider.

These terms and conditions shall include:-

- 0 requirement that the Water Service Provider test the meter within a maximum number of days following the Consumer's request; and the consumer shall pay for the test
- 1 Requirement that the Water Service Provider notify the Consumer a minimum number of days prior to performing the test so that the Consumer may observe the testing if the Consumer desires to do so.
- 2 Payment by the consumer of the costs of testing.

In the event that the test reveals the meter to have a margin of error above the acceptable level, the Water Service Board shall require that the Water Service Provider:-

- 0 adjust the Consumer's bills for a maximum number of three billing periods prior;
- 1 Or adjust the bill to the average bill of the last three billing periods or months;
- 2 Use demand, from household occupancy, to estimate the water use and the appropriate charge
- 3 Credit or debit the over or under charges within this period to the Consumer's account; and
- 4 Replace the meter at the Water Service Providers cost if the meter proves faulty.

In the event that the test reveals the meter to have a margin of error below some

acceptable level, require the Consumer to pay the costs incurred by the Water Service Provider to test the meter.

Fraudulent altering of meters

(1) For the purposes of these Regulations, if it is alleged that a consumer has altered the index of a meter or any other assets of the Water Services Boards, or tampered with the meter or any other assets of the Water Services Boards in any way, it shall rest upon him to prove that he did not alter it fraudulently, and the existence of any artificial means under the control of a consumer for preventing a meter from registering correctly or for enabling him fraudulently to abstract or use water shall be evidence that he has fraudulently prevented the meter from registering correctly or, as the case may be, has fraudulently abstracted or used water.

Provided also that in each case, the illegal connection shall be disconnected and a further charge shall be imposed on the culprit, being, the approximate charge for water estimated to have been used from such illegal connection, without prejudice to the culprit's liability to prosecution for an offence under these regulations.

PART VI

BILLING

Meter reading intervals

- 0 Water meters shall be read at intervals of one calendar month, without prejudice to the foregoing, however, a Water Service Provider may, for a number of billing periods to be determined by the Water Services Board, estimate the amount of water consumed by the Consumer in lieu of physical meter readings.
- 1 In the event that a Water Service Provider is unable to obtain a Consumer's meter readings during the Water Service Provider's normal business hours, having exercised due diligence then the Water Service Provider may estimate the amount of water consumed by the Consumer, and this shall not be disputed by the customer.
- 2 Where the meter is not functional the water service provider may before replacing the meter estimate the bill based on the historical consumption.

Issuing of bills

- 0 After the Meter has been read or estimated as the case may be the Water Service Provider will as soon as practicable a issue a bill for the amount consumed.
- 1 All bills shall be due and payable within the notice period provided that the failure to receive a bill does not relieve a customer from liability to pay.

Billing per month

There shall be provided a minimum of one bill per month for all consumers per account. The accounts receivable shall not be more than two (2) months of monthly billing and the Water service board shall ensure that specific monitoring on the Water Service Provider is maintained on adherence to this regulation.

Content and simplicity of bills

(1) Subject to section 47 o of the Water Act 2002 the consumers' bills shall only cover Water Services.

(2)Where a Water Service Provider supplies both Water and Sewerage Services, the bill shall cover both services.

(3)Each Consumer's bill shall be in a simple, easy-to-read format and shall include at least the following information:-

The amount of the bill, including, as applicable, separate line items for water charge per cubic meter, wastewater collection levies, duties and fees, taxes, any discounts or penalties, and past due amounts;

If the Water Service Provider read the meter, the date and reading of the meter at the beginning and at the end of the billing period;

The due date of the bill;

The applicable tariff schedule;

Any conversions from meter reading units to billing units;

A clear specification of the meter reading and billing cycle.

Duty to provide breakdown of charges

(1)A Water Service Provider shall provide free of charge to an applicant or a Consumer a breakdown of charges at the time service is initially installed or is modified, upon request by a Consumer and shall also provide receipts for any amount paid to it by a Consumer.

(2)A Water Service Provider shall maintain monthly billing records for each Consumer account for as many billing periods as maybe required by the Water Services Board. The billing records shall contain sufficient data to reconstruct a Consumer's billing for a given period and copies of such billing records may be obtained by that Consumer on request.

Billing error

Where a billing error is discovered, a Water Service Provider shall account for the billing error in the next month's bill as follows:-

If charges are found to be higher than the correct amount, an adjustment shall be made for the entire period of the over-billing, and the Water Service Provider may be required to pay a prescribed amount over and above the overcharge at a rate set by the Water Services Board.

If charges are found to be lower than the correct amount, then the Water Service Provider may retroactively bill the Consumer for any under-billed amount that would have been payable by the Consumer.

The Water Services Board shall set a limit on the number of under-billed periods eligible for correction, and shall not allow the Water Service Provider to charge interest on any under-billed amounts.

The Water Services Provider shall make provision for the consumer to pay the arrears for the under-billed period in instalments.

Dispute over bills

Where a dispute arises between a Water Service Provider and a Consumer about a water services bill, the Water Service Provider shall investigate and report the results to the Consumer. In the event that the dispute remains unresolved, the Water Service Provider shall inform the Consumer of the Complaint procedures pursuant to these Regulations.

Billing for unauthorised use

When a Water Service Provider determines that there has been unauthorized use of a Water and/or Sewerage Service, it shall take the necessary actions to stop the unauthorized use and bill the unauthorized user without prejudice to its right to impose such penalties as may be deemed to be appropriate, provided that such bill shall indicate the total unauthorized use of Water and Sewerage Services.

Billing for water from other sources

Where premises are supplied with water from a source other than the area Water Service Provider, all the sources should be metered.

Estimate bills for unauthorised use of water

(1) Any consumer who, whether directly or indirectly allows new installations or connections to be made to the existing mains without the permission of either the Water Service Board or Water Service Provider shall be guilty of an offence and liable to punishment under these regulations.

in addition the Water Service Provider shall make a reasonable estimate of water that has been used pursuant to the illegal connections or installations and accordingly bill the consumer for the same.

PART VII

PORTABLE, BOREHOLE AND WATER FROM POINT SOURCES

Types of portable water service

With the permission of the Water Service Board, the Water Service Provider may provide or authorise any other person to provide the following classes of portable water services:

- 0 Domestic service
- 1 Fire service
- 2 Construction service
- 3 A combination of domestic, fire and construction service or any two of them.

(2)The water service board may, where it deems it necessary, provide that a community based provider existing at the time of, or before the contracted of Water Service Provider shall operate within the area of the contracted water service provider for a specific period of time before it is required according to criteria prescribe in rules made under section 110 of the Water Act 2002 to merge with the contracted water services provider.

Prescribed rates for portable service

Portable water service shall be billed and paid for like any other non- water service in accordance with the prescribed rates approved by the regulator.

Licensing of portable water services

(1)Boreholes owners shall register with the Water Services Board, and shall upon approved water quality tests be licensed by the Water Services Board as a portable water vendor in accordance with conditions to be prescribed by the water service board, under guidelines issued by the regulator on and provided that the contracted Water Service Provider has no capacity to supply the area in question.

Where a water service provider has exclusivity in service provision, it shall be entitled to obtain water from private boreholes and / or water sources within its area of supply to meet the demand of consumers within its area of supply provided that an arrangement shall be formalized by an agreement between the two parties and

under supervision and assistance of the water service board.

Communal based supplies

(1)The Water Service Provider shall install a communal water kiosk for the provision of water supply services to several consumers at a location it considers appropriate, provided that a majority of consumers, who in the opinion of the Water Service Provider constitute a substantial majority, and to whom water services will be provided by the Water Services Provider has been consulted by him or the Water Services Board.

(2)The Water Service Provider may provide communal water supply services through a communal installation designed to provide a controlled and measurable volume of water to several consumers and commercially managed in consultation with the community.

(3)The Water Service Provider shall ensure that the water tariffs charged at such a water point shall be appropriate for the consumers and shall be published in a prominent place at the water point.

Quality and Handling of water

(1)All portable water shall be from an approved point source which meets the quality standards set under these regulations and regulations issued by the Water Resources Management Authority and shall not contain any constituent in quantities that may be injurious to health.

Unless authorised by the water service provider no water packaging for sale will be allowed from its connections. If such abstraction is allowed the point of abstraction must be indicated in the package by the vendor otherwise it shall be an offence punishable according to the sanctions prescribed in these regulations.

All portable water packaged to be sold in water containers shall be handled, transported and sold by water vendors in accordance with guidelines issued by the water service board and sold at prices approved by the regulator.

Sampling of portable water

(1)The Water Services Board shall after giving licence to any person to provide portable water service for domestic purpose, require the supplier to undertake the sampling and analysis of the source of the water for contaminants and make reports to it at prescribed intervals.

(2)Such sampling and analysis shall be conducted in accordance with the guidelines set by the regulator on water quality monitoring.

PART VIII

SEWERAGE AND SANITATION

Establishment of sewerage services

- 0 Water Service Providers shall in addition to the provision of water for consumption to the consumers provide sewerage services, Provided that all persons requiring sewerage services shall make an application to the Water Service Providers at such fee as may be prescribed by the Water Service Provider subject to the approval of the Water Services Regulatory Board.
- 1 Subject to the regulations on water transportation made under the Environment Management and Coordination Act, The Water Service Provider may from time to time license private exhauster services to supplement and help it meet service demand.
- 2 The Water Service Provider shall determine an application for the provision of sewerage services by granting the application or by rejecting the application with reasons thereby.
- 3 The decision of the Water Service Provider together with the reasons thereof shall be communicated to the applicant within thirty working days from the date of submission of the duly completed application.
- 4 All owners or operators of any trade or industrial undertaking within the area of supply of a Water Service Provider which discharge into sewers shall make an application for the provision of an effluent discharge license which application shall be approved by Water Services Provider the for the grant of an Effluent Discharge License which shall be recorded in a register maintained by the Water Service Provider in the prescribed form under the Act and that shall issue within one month of the application.

Provided that the Effluent Discharge License issued shall conform to the set standards of the Water Service Provider, shall not be transferable and shall be valid for such period as may be determined by the Water Service Provider.

All persons who possess the effluent discharge license into the sewer must ensure that the following substances MUST not be discharged into the Water Service Provider's sewerage system:

- 0 Calcium Carbide
- 1 Chloroform
- 2 Condensing water
- 3 Degreasing solvents of mono-di-trichloroethylene type
- 4 Radio-active substances or residues
- 5 Volatile petroleum products
- 6 Flammable solvents
- 7 Substances likely to interfere with the free flow or likely to damage the sewers,

The Water Service Provider shall determine the maximum amounts of substances that may be permitted to be discharged into the sewer and shall provide a comprehensive list of effluent quality in accordance with the guidelines of water and effluent quality developed by the Regulatory Board.

Every Water Service Provider or any other person operating a sewerage system or owner or operator of any trade or industrial undertaking issued with an Effluent Discharge License as stipulated above shall be guided by the monitoring guidelines issued by the regulatory board and shall comply with the Kenya standards for

effluent discharge.

- 0 Authorized personnel from the Water Service Provider may from time to time take samples of trade effluent at any premises within their area of supply for the purposes of testing the quality of industrial effluent discharged and such testing shall at all times be carried out by accredited laboratories, which are also registered under the Environmental Management and Coordination Act and in accordance with the schedule provided by Water Services Board in accordance with the guidelines of the Regulatory Board.

Effluent charges

- 0 The occupier of any premises connected to a Water Service Provider's sewerage system shall pay to the Water Service Provider such charges and fees as may be determined from time to time by in accordance with approved tariff levels.
- 1 The occupier of any premises other than the dwelling from which sewerage passes into a sewerage pit or conservancy tank shall pay to the Water Service Provider or the exhauster where one is appointed, in advance, such fees as may be determined from time to time by the tariff levels for purposes of emptying the pit, which charges shall be dependent on the distance covered to the point of discharge, and the quality of the effluent.

Restriction on sewer flooding

Subject to regulations made under the Environmental Management and Coordination Act and under the effluent discharge license Cases of sewer flooding shall be restricted to a maximum of 5 per cent of total connections per year. Provided that it shall be the responsibility of the licensee or its authorised agents to make good the

flooding in accordance with the Incidence response plan developed for the whole system.

Restriction on sewer blockage

No person may cause or permit accumulation or obstruction in any passage that may cause blocking of a sewer, Provided that in any event where an owner or occupier has reason to believe that a blockage has occurred he shall take steps to clear it.

Liability for sewer blockage

Any blockage deemed in the opinion of the Water Services Provider to have emanated from the activities and /or drains of an owner or occupier, that owner or occupier shall be liable to cost of clearing the blockage.

Obligation to connect to sewerage system

- 0 All premises on which sewage is produced must be connected to the Water Service Provider's sewerage system if a connecting sewer is available within 100 metres or if it is reasonably possible or cost effective for the Water Services Provider to install a connecting sewer. No approval for on-site sanitation services shall be granted in such instances
- 1 Where the consumer is within the distance prescribed above the Water Service Provider shall by six (6) month notice, require the owner of premises not connected to the Water Service Providers sanitation system to connect to the sewerage system.
- 2 An owner of premises, who is required to connect those premises to the Water Service Provider's sewerage system in accordance with subsection (2), must inform the Water Service Provider in writing of any sanitation services, provided by the Water Service Provider on the site, which will no longer be required as a result of the connection to the sewerage system.

The owner will be liable for any charge payable in respect of sanitation services on the site, until an agreement for rendering those services has been terminated in accordance with the conditions to which the connection agreement or contract was subjected.

If the owner fails to connect premises to the sewerage system after having had a notice in terms of subsection (2) the Water Service Provider notwithstanding any other action that it may take in terms of these regulations, shall impose a monthly penalty which shall be equivalent to the monthly sewer charge in accordance with the prevailing tariffs.

Where the distance is over 100 metres from the sanitation system the Water service provider shall with the approval of the water service board provide a mechanism through which property owners shall be compensated on evidence of costs for the construction of the sewer line which in any case shall be possessed by the water service board for the connection of subsequent consumers .

Provision of connecting sewer

- 0 If an application is made for sanitation services which are of such an extent or so situated that it will become necessary to extend, modify or upgrade the sanitation system in order to provide sanitation services to any premises, the Water Service Provider may agree to the extension only if the owner pays or undertakes to pay for the cost, as determined by the Water Service Provider, of the extension, modification or upgrading of the services.
- 1 Only the Water Service Provider may install or approve an installed connecting sewer; but the owner or customer may connect the sanitation installation to the connection pipe, with the supervision of the water service providers.

- 2 No person may commence any development on any premises unless the Water Service Provider has approved a connecting sewer, where one is available.

Location of connecting sewer

- 0 A connecting sewer that has been provided and installed by the Water Service Provider must—
 - a) be located in a position determined by the Water Service provider and be of a suitable size determined by the Water Service Provider; and
 - 1 terminate at—
 - 0 the public mains sewer on public land
 - 1 At the connecting point if it is situated on the premises.

The Water Service Provider may at the request of the owner of premises, approve, subject to any conditions that he may impose, a connection to a connecting sewer other than one that is most readily available for the provision of sanitation services to the premises; in which event the owner shall be responsible for any extension of the drainage installation to the connecting point designated by the water service board or water service provider and for obtaining, at his own cost, any servitude over other premises that may be necessary.

Where an owner is required to provide a sewage lift as provided for in terms of the Building Regulations, or the premises are at a level where the drainage installation cannot discharge into the sewer by

gravitation, the rate and time of discharge into the sewer has to be subject to the approval of the Water Service Provider.

- 0 The owner of premises must pay the connection charges and tariffs determined by the Water Service Provider before a connection to the connecting sewer can be effected.

Provision of one connecting sewer for several consumers on same premises

(1) Only one connecting sewer to the sewerage system may be provided for the disposal of sewage from any premises, irrespective of the number of accommodation units of consumers located on such premises.

(2) Notwithstanding subsection (1), the Water Service Provider may authorise that more than one connecting sewer be provided in the sanitation system for the disposal of sewage from any premises comprising sectional title units or if, in the opinion of the Water Service Provider, undue hardship or inconvenience would be caused to any consumer on such premises by the provision of only one connecting sewer.

(3) Where the provision of more than one connecting sewer is authorised by the Water Service Provider under subsection (2), the tariffs and charges for the provision of a connecting sewer are payable in respect of each sewage connection so provided.

Interconnections between premises

An owner of premises must ensure, unless he has obtained the prior approval of the Water Service Provider and complies with any conditions that it may have imposed, that no interconnection exists between the drainage installation on his premises and the drainage installation on any other premises.

Disconnection of connecting sewer

The Water Service Provider may disconnect a drainage installation from the connection pipe and remove the connection pipe on the termination of an agreement for the provision of sewer services in accordance with these regulations. Provided that such pipes may alternatively be sealed at the inlet to the man-hole of the connection and provided also that water service providers shall not effect sewer disconnection where public health is at risk but shall use other measures including but not limited to legal sanctions.

Standard of sanitation services

Sanitation services provided by the Water Service Provider must comply with the minimum standards set for the provision of sanitation services in terms of Public Health Act, the Local Government Act and all regulations and regulations made there under.

Measurement of quantity of domestic effluent discharged

- 0 As from the applicable date of these regulations the quantity of domestic effluent discharged shall be determined as a percentage of water supplied by the Water Service Provider provided that where the Water Service 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 Water Service 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.
- 1 Where premises are supplied with water from a source other than, or in addition to, the Water Service Providers water supply system,

including abstraction from a river or borehole, the quantity of effluents must be a percentage of the total water used on those premises that is reasonably estimated by the Water Service Provider. Provided that the consumer may be required to provide a meter for such alternative source, for purposes of estimating the consumption from such alternative source.

Measurement of quantity and determination of industrial effluent

0 The quantity of industrial effluent discharged into the sewerage system must be determined-

where a measuring device is installed, by the quantity of industrial effluent discharged from the premises as measured by that measuring device; or

until the time that a measuring device is installed, by a percentage of the water supplied by the water service provider to those premises.

The Water Service Provider may require the owner of any premises to incorporate in any drainage installation conveying industrial effluent to a sewer, any control meter or gauge or other device of an approved type and in the control of the Water Service Provider for the purpose of ascertaining to the satisfaction of the Water Service Provider.

The Water Service Provider may install and maintain any meter, gauge or device referred to in subsection (2) at the expense of the owner of the premises on which it is installed.

The Water Service Provider may at its discretion enter into an agreement with any person discharging industrial effluent into the sanitation system, establishing an alternative method of assessing the quantity and tempo of effluent so discharged.

- 0 Charges relating to the quality of industrial effluent will be based on the formula for industrial effluent discharges as prescribed in these regulations

Conditions for assessment of industrial effluent

The following conditions shall apply in respect of the assessment of the quality of industrial effluent discharged:

each customer must conduct the prescribed tests, on a regular schedule as provided for in the approval to discharge industrial effluent, and report the results to the Water Service Provider;

the Water Service Provider may conduct random compliance tests to correlate with those used in subsection (a) and, if discrepancies are found, the values of the Water Service Provider shall, except for the purpose of criminal proceedings, be presumed to be correct and further tests may be required by the Water Service Provider to determine, at the cost of the customer, the values for the formula;

the average of the values of the different analysis results of 24 hourly composite or snap samples of the effluent, taken during the period of charge, will be used to determine the quality charges payable;

in the absence of a complete daily set of 24 hourly composite or snap samples, the average of not less than two values of the sampled effluent, taken during the period of charge, will be used to determine the charges payable;

in order to determine the strength (Chemical oxygen demand, suspended solids concentration, Ammonia concentration, and ortho-phosphate concentration) in the effluent as well as the concentration of Group 1 and 2 metals, pH value and conductivity, the Water

Service Provider will use the standard test methods for these respective purposes. Test results from a laboratory, accredited by the Water Services Board, will have precedence over those of the Water Service Provider;

the formula is calculated on the basis of the different analysis results of individual snap or composite samples and the period of treatment for calculation shall not be less than one full 24-hour period; unless evidence, is submitted to the Water Service Provider that a lesser period is actually applicable;

the terms of the disincentive formula cannot assume a negative value;

the total system values for quality charges shall remain constant for an initial period of one month, but in any case not longer than twelve months from the date of commencement of these charges, after the expiry of which time they may be amended or revised from time to time depending on such changes in the analysis results or further samples, as may be determined from time to time: provided that the Water Service Provider in its discretion in any particular case, may levy the minimum charges prescribed in subsection (8)(1) without taking any samples;

whenever the Water Service Provider takes a sample, one half of it must be made available to the customer;

for the purpose of calculating of the quantity of effluent discharged from each point of discharge of effluent, the total quantity of water consumed on the premises shall be allocated to the several points of discharge as accurately as is reasonably practicable;

the costs of conveying and treating industrial effluent shall be determined by the Water Service Provider and shall apply with effect from a date determined by the Water Service Provider; and;

- 0 In the discretion of the Water Service Provider, the charges for industrial effluent may be changed to a fixed monthly charge determined by taking into consideration the effluent strengths, the volume and the economic viability of micro and small industries.

Charges in respect of on-site sanitation services

Subject to regulations made under the Environmental Management and Coordination Act on Waste Management ,charges in respect of the removal or collection of conservancy tank contents, night soil or the emptying of pits will cover all the operating and maintenance costs arising from the removal of the pit contents, its transportation to a disposal site prescribed under the Environmental Management and Coordination Act , the treatment of the contents to achieve a sanitary condition and the final disposal of any solid residues and are payable by the owner.

Drainage installations

An owner must provide and maintain his drainage installation at his own expense, unless the installation constitutes a basic sanitation facility as determined by the Water Service Provider, and except where otherwise approved by the Water Service Provider, must ensure that the installation is situated within the boundary of his premises.

The Water Service Provider may prescribe the point in the sewer, and the depth below the ground, at which any drainage installation is to be connected and the route to be followed by the drain to the connecting point and may require the owner not to commence the construction or connection of the drainage installation until the Water Service Provider's connecting sewer has been laid;

Any drainage installation that has been constructed or installed must comply with any applicable specifications in terms of the Building Regulations and any standard prescribed in terms of any other law;

No person shall permit the entry of any liquid or solid substance

whatsoever, other than clean water for testing purposes, to enter any drainage installation before the drainage installation has been connected to the sewer;

- 0 Where premises are situated in the 1 in 50 years flood plain, the top level of all service access holes, inspection chambers and gullies must be above the 1 in 50 years flood level;
- 1 After the completion of any drainage installation, or after any alteration to any drainage installation is completed, the plumber responsible for the execution of the work must submit to the Water Service Provider and the building inspection section of the relevant local authority a certificate certifying that the work was completed to the standards set out in the building regulations, these regulations and any other relevant laws or regulations.
- 2 No rainwater or storm-water, and no effluent other than an effluent that has been approved by the Water Service Provider, may be discharged into a sewer.

Disconnection of drainage installations

- 0 Except for the purpose of carrying out maintenance or repair work, and in reference to regulation 84 of these regulations, no drainage installation may be disconnected from the connection point.
- 1 Where any part of a drainage installation is disconnected from the remainder because it will no longer be used, the disconnected part must be destroyed or entirely removed from the premises on which it was used, unless the water service provider approves otherwise.
- 2 When a disconnection has been made after all the requirements of the Building Regulations in regard to disconnection have been complied with, the water service provider must upon the request of the owner,

issue a certificate certifying that the disconnection has been completed in terms of the Building Regulations and that any charges raised in respect of the disconnected portion of the drainage installation shall cease to be levied from the end of the month preceding the first day of the month following the issue of such certificate.

- 3 When a drainage installation is disconnected from a sewer, the water service provider must seal the opening caused by the disconnection and may recover the cost of doing so from the owner of the premises on which the installation is disconnected
- 4 Where a drainage system is connected to or disconnected from the sewer system during a month, charges will be calculated as if the connection or disconnection were made on the first day of the month following the month in which the connection or disconnection took place.

Maintenance of drainage installations

- 0 An owner must provide and maintain his drainage installation at his own cost.
- 1 Where any part of a drainage installation is used by two or more owners or occupiers, they shall be jointly and separately liable for the maintenance of the installation
- 2 The owner of any premises must ensure that all manholes and cleaning eyes on the premises are permanently visible and accessible.

Technical requirement of drainage installations

All drainage installations shall comply with standards set by the Kenya Bureau of Standards and adopted for use by the building regulations in use or prescribed by notice for use by the regulator.

Drains

- 0 Drains passing through ground which in the opinion of the Water Service Provider is liable to movement, shall be laid on a continuous bed of river sand or similar granular material not less than 100 mm thick under the barrel of the pipe and with a surround of similar material and thickness, and the joints of such drains must be flexible joints approved by a prescribed practitioner under rules made under the Water Act 2002.
- 1 A drain or part of it may only be laid within, or either passes under or through a building, with the approval of the Water Service Provider.
- 2 A drain or part of it which it is laid in an inaccessible position under a building may not bend or be laid at a gradient and shall only be laid after the approval of the water service provider.
- 3 If a drain passes through or under a wall, foundation or other structure, adequate precautions shall be taken to prevent the discharge of any substance to the drain or leakage of any substance from the drain.

Sewer blockages

- 0 No person may cause or permit an accumulation of grease, oil, fat, solid matter, or any other substance in any trap, tank, or fitting that may cause its blockage or ineffective operation.
- 1 When the owner or occupier of premises has reason to believe that a blockage has occurred in any drainage installation in, he shall take immediate steps to have it cleared.
- 2 When the owner or occupier of premises has reason to believe that a blockage has occurred in the sewer system, he shall immediately inform the Water Service Provider.

- 3 Where a blockage occurs in a drainage installation, any work necessary for its removal must be done by, or under the supervision of, the water service provider.
- 4 Should any drainage installation on any premises overflow as a result of an obstruction in the sewer, and if the Water Service Provider is reasonably satisfied that the obstruction was caused by objects emanating from the drainage installation, the owner of the premises served by the drainage installation shall be liable for the cost of clearing the blockage and his action shall constitute an offence under these regulations.
- 5 Where a blockage has been removed from a drain or portion of a drain which serves two or more premises, the owners are jointly and severally liable for the cost of clearing the blockage.
- 6 Where a blockage in a sewerage system caused by the customer has been removed by the Water Service Provider and the removal necessitated the disturbance of an owners paving, lawn or other artificial surface the Water Service Provider shall not be required to restore them to their previous condition and shall not be responsible for any damage to them unless caused by the wrongful act or negligence of the Water Service Provider.

Grease taps

A grease trap of an approved type, size and capacity must be provided in respect of all premises that discharge sewage to on-site sanitation systems or where, in the opinion of the Water Service Provider, the discharge of grease, oil and fat is likely to cause an obstruction to the flow in sewers or drains, or to interference with the proper operation of any waste-water treatment plant.

Industrial grease taps

- 0 The owner or manufacturer must ensure that industrial effluent which contains, or which, in the opinion of the Water Service

Provider is likely to contain, grease, oil, fat or inorganic solid matter in suspension shall, before it is allowed to enter any sewer, be passed through one or more tanks or chambers, of a type, size and capacity designed to intercept and retain such grease, oil, fat or solid matter, that is approved by the Water Service Provider.

The owner or manufacturer must ensure that oil, grease or any other substance which is contained in any industrial effluent or other liquid and which gives off an inflammable or noxious vapour at a temperature of, or exceeding, 20° C must be intercepted and retained in a tank or chamber so as to prevent its entry of into the sewer.

A tank or chamber as referred to in subsection (2) must comply with the following requirements:

- 0 It shall be of adequate capacity, constructed of hard durable materials and water-tight when completed
- 1 the water-seal of its discharge pipe shall be not less than 300 mm in depth; and
- 2 shall be provided with a sufficient number of manhole covers for the adequate and effective removal of grease, oil fat and solid matter.

Any person discharging effluent to a tank or chamber must remove grease, oil, fat or solid matter regularly from the tank or chamber and must maintain a register recording—

- 0 the dates on which the tank or chamber was cleaned;
- 1 the name of any the persons employed by him to clean the tank or chamber or, if he cleaned it himself, that fact that he did so; and
- 2 a certificate from the person employed to clean it certifying that the tank or chamber has been cleaned and stating the manner in which the contents of the tank or chamber were disposed of, or, if he cleaned it himself, his own certificate to that effect,

provided that a register may be used to record all such operations and maintenance.

Mechanical appliances for lifting sewage

- 0 The owner of any premise must obtain the approval of the Water Service Provider before installing any mechanical appliance for the raising or transfer of sewage in terms of the Building Regulations.
- 1 Approval must be applied for by a professional engineer and must be accompanied by drawings prepared in accordance with the relevant provisions of the Building Regulations and must show details of the compartment containing the appliance, the sewage sump, the stilling chamber and their position, and the position of the drains, ventilation pipes, rising main and the sewer connection.
- 2 Notwithstanding any approval given in terms of subsection (1), the Water Service Provider shall not be liable for any injury, loss or damage to life or property caused by the use, malfunctioning or any other condition arising from the installation or operation of a mechanical appliance for the raising or transfer of sewage unless the injury or damage be caused by the wrongful intentional or negligent act or negligence of an employee of the Water Service Provider.
- 3 Every mechanical appliance installed for the raising or transfer of sewage shall be specifically designed for the purpose and shall be fitted with a discharge pipe, sluice valves and non-return valves located in approved positions.
- 4 Unless otherwise permitted by the Water Service Provider, such mechanical appliances shall be installed in duplicate and each such appliance shall be so controlled that either will immediately begin to function automatically in the event of failure of the other.
- 5 Every mechanical appliance forming part of a drainage installation

shall be located and operated so as to not cause any nuisance through noise or smell or otherwise, and every compartment containing any such appliance must be effectively ventilated.

The maximum discharge rate from any mechanical appliance, and the times between which the discharge may take place, shall be as determined by the Water Service Provider who may, at any time, require the owner to install such fittings and regulating devices as may in his opinion, be necessary to ensure that the determined maximum discharge rate shall not be exceeded.

Except where sewage storage space is incorporated as an integral part of a mechanical appliance, a sewage storage tank must be provided in conjunction with such appliance

Every sewage storage tank required in terms of paragraph (a) must-

- 0 be constructed of hard, durable materials and must be watertight and the internal surfaces of the walls and floor must be smooth and impermeable;
- 0 have a storage capacity below the level of the inlet equal to the quantity of sewage discharged there into it in 24 hours or 900 litres, whichever is the greater quantity; and
- 1 be so designed that the maximum of its sewage content shall be emptied at each discharge cycle of the mechanical appliance.
- 1 Every storage tank and stilling chamber shall be provided with a ventilation pipe in accordance with the design specifications.

Installation of on-site sanitation services

If an agreement for on-site sanitation services in respect of premises has been concluded, or if it is not reasonably possible or cost effective for the Water Service Provider to install a connecting sewer, the owner must install sanitation services specified by the Water Service Provider, on the site unless the service is a subsidised

service that has been determined by the Water Service Board in accordance with its pro poor service strategies.

Ventilated improved pit latrines

- 0 Subject to the provisions of the Public Health Act, the water service provider may, on such conditions as it may prescribe, having regard to the nature and permeability of the soil, the depth of the water table, the size of, and access to, the site and the availability of a piped water supply, approve the disposal of human excrement by means of a ventilated improved pit (VIP) latrine.
- 1 A ventilated improved pit latrine must have;
 - 0a minimum pit of 2 m³ capacity;
 - 1 lining as required;
 - 2a slab designed to support the superimposed loading; and;
 - 3 Protection preventing children from falling into the pit.
- 2 A ventilated improved pit latrine must conform to the following specifications:
 - 1 the pit must be ventilated by means of a pipe, sealed at the upper end with durable insect proof screening fixed firmly in place;
 - 2 the ventilation pipe must project not less than 0.5 m above the nearest roof, must be of at least 100 mm in diameter, and must be installed vertically with no bend;
 - 3 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;
 - 4 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 ingress of flies and other insects when the toilet is not in use;
- 5 must be sited in a position that is independent of the dwelling unit;
 - 6 must be sited in positions that are accessible to road vehicles having a width of 3.0 m in order to facilitate the emptying of the pit;
 - 7 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 im-permeable material that is durable and will not crack under stress; and
 - 8 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.

Septic tanks and treatment plants

- 0 The Water Service Provider may, on such conditions as it may prescribe, approve the disposal of sewage or other effluent by means of septic tanks or other on-site sewage treatment plants.
- 1 A septic tank or other sewage treatment plant on a site must not be situated closer than 3 metres to any dwelling unit or to any boundary of the premises on which it is situated.
- 2 Effluent from a septic tank or other on-site sewage treatment plant must be disposed of to the satisfaction of the Water Service Provider in accordance with regulations made under the Environmental and Coordination Act on Waste Management.
- 3 A septic tank must be watertight, securely covered and provided with gas-tight means of access to its interior adequate to permit the inspection of the inlet and outlet pipes and adequate for the purpose of removing sludge, and scum.
- 4 No rain water, storm-water, or effluent other than that approved by the Water Service Provider may be discharged into a septic

tank.

French drains

- 0 The Water Service Provider may, on such conditions as prescribed by the relevant regulations, guidelines having regard to the quantity and the nature of the effluent and the nature of the soil as determined by the permeability test prescribed by the Kenya Bureau of Standards, approve the disposal of waste-water or other effluent by means of French drains, soakage pits or other approved works.
- 1 A French drain, soakage pit or other similar work shall not be situated closer than 5 m to any dwelling unit or to any boundary of any premises on which it is situated, nor in any such position that will, in the opinion of the water service provider, cause contamination of any borehole or other source of water which is, or may be, used for drinking purposes, or cause dampness in any building.
- 2 The dimensions of any French drain, soakage pit or other similar work shall be determined in relation to the absorbent qualities of the soil and the nature and quantity of the effluent.
- 3 French drains serving premises other than a dwelling house must be designed and certified by a licensed engineer registered as a member of the institute of engineers of Kenya.

Conservancy tanks

- 0 The Water Service Provider may, on such conditions prescribed by the relevant regulations and guidelines issued under the Public Health Act approve the construction of a conservancy tank and ancillary appliances for retention of sewage or effluent.
- 1 No rain water, storm-water, or effluent other than approved by the Water Service Provider may be discharged into a conservancy tank.

The water Service Provider may, having regard to the position of a conservancy tank or of the point of connection for a removal vehicle, require the owner or customer to indemnify the Water Service Provider, in writing, against any liability for any damages that may result from rendering of that service as a condition for emptying the tank.

Where the Water Service Provider's removal vehicle has to traverse private premises for the emptying of a conservancy tank, the owner shall provide a roadway at least 3,5 m wide, so hardened as to be capable of withstanding a wheel load of 4 metric tons in all weather, and shall ensure that no gateway through which the vehicle is required to pass to reach the tank, shall be less than 3,5 m wide for such purposes.

The owner or occupier of premises on which a conservancy tank is installed shall at all times maintain the tank in good order and condition to the satisfaction of the water service provider

No conservancy tank must be used as such unless:

the invert of the tank slopes towards the outlet at a gradient of not less than 1 in 10;

the tank is gas and water tight;

the tank has an outlet pipe, 100 mm in internal diameter, made of wrought iron, cast iron or other approved material, and except if otherwise approved by the water service provider, terminating at an approved valve and fittings for connection to the Water Service Providers' removal vehicles;

the valve and fittings referred to in paragraph (c) or the outlet end of the pipe, as the case may be, are located in a chamber that has hinged cover approved by the engineer and which is situated in a position required by the Water Service Provide;

- 0 Access to the conservancy tank must be provided by means of an approved manhole fitted with a removable cast iron cover placed immediately above the visible spigot of the inlet pipe.

Operation and maintenance of on-site services

The operation and maintenance of on-site sanitation services and all costs pertaining to it remains the responsibility of the owner of the premises, unless the on-site sanitation services are subsidised services determined in accordance with the licensees pro poor service plans for informal settlements.

Disused conservancy and septic tanks

If an existing conservancy tank or septic tank is no longer required for the storage or treatment of sewage, or if permission for its use is withdrawn, the owner must either cause it to be completely removed or to be completely filled with earth or other suitable material, provided that the Water Service Provider may require a tank to be dealt with in another way, or approve its use for other purposes, subject to any conditions specified.

PART IX

PROFESSIONALS IN THE WATER SERVICES SECTOR

Licensing of engineers and plumbing contractors

(1) No person shall be qualified to plan, design and implement water services infrastructure unless he holds all the professional qualifications prescribed by the relevant professional body and is licensed to practice in the water services sector as a water and sanitation engineer according to rules made under section 110 of the Water Act 2002.

No person, partnership or corporation shall be eligible to be licensed as a plumbing contractor unless he is professionally qualified as prescribed by the relevant professional body and is licensed to practice in the water services sector as a plumbing contractor or plumber according to rules made under section 110 of the Water Act 2002.

Application for licence

Applications for a licence under rules made under Section 110 of the Water Act shall be made to the relevant body prescribed and anybody who qualifies for a licence under that section shall be issued with a licence on meeting conditions prescribed.

Offence of laying pipe etc without a licence

Any person, partnership or Corporation who lays, fits or connects any pipes, trunks, mains, fittings, equipments appliances or other connections to the water reticulation or sewerage system belonging to a Water Services Board without the requisite licence issued under regulations 107 above shall be guilty of an offence and shall be liable to a fine not exceeding Kshs. 100,000 or to imprisonment for a term not exceeding six months, or both.

Offence of permitting unlicensed person to lay a pipe etc

Any person, whether an owner or occupier of premises or otherwise, who permits an

unlicensed person to lay, fit or connect any pipe, trunk, mains, fittings, equipments, appliance or other connections to the existing water reticulation or sewerage system belonging to a Water Services Board shall be guilty of an offence and liable to a fine not exceeding Kshs. 50,000.00 or to imprisonment for a term not exceeding six (6) months, or both.

PART X

RESPONSIVENESS TO CUSTOMER INTERESTS, CONCERNS, REQUESTS AND COMPLAINTS

Maintenance of Customer service centre

The Water Services Boards shall require that each Water Service Provider maintain at least one Customer service centre for the purpose of addressing and resolving Applicant and Consumer service requests and complaints and all such Customer Service Centres shall operate during normal business hours on each Business Day.

Information at customer service centre

Water Service Provider shall display full contact information for the Customer Service Centre:-

- 0 On applications for service;
- 1 On Consumer bills; and
- 2 Via other media as required by the Water Services Board in a separate regulation or Service Provision Agreement.

Filing a complaint

An Applicant or customer may make a verbal or written Complaint to a Water Service Provider by communicating the Complaint to the Water Service Provider's Customer Service Centre. Upon receipt of a Complaint, the Water Service Provider's Consumer Service Centre shall:-

- Immediately record the complaint or request in accordance with these Regulations, and provide the serial number of such complaint or request as entered in the register to the Applicant or Consumer;
- Immediately inform the Applicant or Consumer of the Water Service Provider's procedures for handling Complaints and Requests, and the Applicant's or Consumer's rights with regard to

- the Complaint; and
- 0 Forward the complaint or request to the appropriate department for resolution.

Maintenance of registers

(1) Subject to these Regulations, the Water Services Boards shall require that Water Service Providers maintain and submit written registers of complaints and requests.

These registers must:-

Be available for inspection at any time;

Record, at a minimum, information on:-

- 0 the date of the problem or query;
- 1 details of the Consumer reporting the problem or details of the utility staff that reported the problem;
- 2 the location of problem or query (account/connection number, properties affected etc.);
- 3 details of the problem or query (cause, pressures measured etc. action taken to resolve problem etc);
- 4 name of person entering the record;
- 5 details of the action to solve the problem or answer query, and;
- 6 (Once completed) the date of complete resolution of problem.

(2) The Water Services Board may issue regulations for maintenance of electronic registers, provided that those regulations are consistent with the intent of these Regulations.

Time for resolution of complaints

The Water Services Boards shall establish a maximum number of calendar days

within which a Water Service Provider must resolve each category of complaint or request, and shall communicate the determined number to the Regulatory Board.

Appeals

If an applicant or consumer or customer is dissatisfied with the Water Service Provider's resolution of a complaint or request, the consumer or customer may initiate the Dispute Resolution Process set out in these Regulations.

Time limit on response

The minimum response time on billing contacts and for complaints from customer shall be as follows:-

- For billing contacts and written complaint; 5 working days;
- For demand for meter and meter testing; 10 working days;
- For paid new connection; less than 3 weeks.

PART XI

CONSUMER INFORMATION

Dissemination of information

(1)The Water Services Board shall require Water Service Providers to provide consumers with certain information not addressed in other provisions of these Regulations, being:-

Information on obtaining service;

Information on the consumer's tariff, the Water Service Providers method of calculating bills, and method of reading meters;

Information on these Regulations and the Water Service Providers terms and conditions of service;

Information on Water Service Provider performance, including service quality indicators and other performance indicators;

Information about any safety issues related to the use of water;

Information about the consequences of theft of water or a consumer's failure to fulfill any of its obligations;

Statistical and other information concerning the Water Service Provider's sales, number of consumers and sources of water supply;

Contact information for the Water Service Providers consumer service centre; and

Any other information that the Water Services Board may deem necessary.

Method and schedule of disseminating information

The Water Services Board shall specify appropriate schedules and methods for the

distribution of information to consumers as required and the appropriate schedule and method of dissemination shall be determined by the time-sensitive nature of the information being conveyed and the likelihood that the audience targeted for such information will receive and understand the information through the method proposed, which methods may include dissemination by:-

Mass media, including electronic, television, radio, and print advertising;

Signage in public areas;

Distribution of fliers through the mail or by other means, such as door-to-door visits;

Distribution of information to community leaders;

Allowing access to records or documents kept in Water Service Provider service centres.

Having public forums to educate the consumers on water services provision.

Costs of disseminating information

Water Service Boards shall bear all costs of disseminating information provided that where consumers request multiple copies of the same publication, the Water Services Board may allow that the consumer requesting the information be charged the reasonable costs of copying, printing and delivering it.

PART XII

WATER CONSERVATION MEASURES

Water use restrictions

Where in the opinion of the Water Services Board drought conditions are imminent, the Water Services Board may by a public notice and notices placed in the local daily newspapers and advertised in other media:

Prohibit or restrict consumption of water in general; and/or

Prohibit or restrict the use of water for specified purposes during specific hours of the day; and/or

Determine and impose a restriction on the quantity of water to be consumed; and/or

Determine and impose charges additional to excess consumption over the restriction; and/or

Impose a general surcharge on determined charges.

Determination of water available

The Water Services Board shall have the right to determine the question of availability of water for use by the public and shall during periods of water scarcity or drought; take the necessary measures to control the use of and to conserve the water available and supplied to the public.

Conditions for determining available water for use

The Water Services Board shall base the availability and supply of water for use on the following:

Water Services Board service targets as approved by the Regulatory Board;
Sufficiency of water;

Cost of laying such mains, and of laying any other infrastructure that may be necessary.

Any other factor that the Water Services Board may consider necessary provided that such factor shall not be inconsistent with the provisions of these Regulations and of the Water Act 2002.

Promotion of water harvesting

(1)The Water Services Board shall ensure that every water service provider has in its control water storage facilities for effective management of water use especially during times of drought.

The water service Board shall promote the application of rain water harvesting in its license area and shall, together with the relevant local authority ensure that every building has provided for facilities of rain water harvesting with at least ten (10) days storage.

Scarcity of water supply

(1)The Water Services Board shall, in the event of scarcity of water supply, make provision for a basic water reserve, which shall provide for the essential needs of individuals served by the water in question and which shall include water for drinking, for livestock, for food preparation and for personal hygiene.

The water reserve shall also provide for an ecological reserve which relates to the water required to protect the aquatic ecosystems of the water resource.

Demand management

The Water Service Provider shall implement the water demand management guidelines issued by the Regulator, and shall ensure that consumers abide by the said guidelines.

Water Audit

(1) The Water Service Provider may require a customer who uses more than,

within one month after the end of a financial year of the Water Service Provider to undertake a water audit at his own cost.

Subject to the provisions of the Demand Management Guidelines developed by the regulator, the audit must at least involve and report—

- 0 The amount of water used during the financial year;
- 1 the amount paid for water for the financial year;
- 2 the number of people living on the stand or premises; the number of people permanently working on the stand or premises;
- 3 the seasonal variation in demand through monthly consumption figures;
- 4 the water pollution monitoring methods;
- 5 the current initiatives for the management of the demand for water;
- 6 the plans to manage their demand for water;
- 7 a comparison of the report with any report that may have been made during the previous three years;
- 8 estimates of consumption by various components of use; and
- 9 a comparison of the above factors with those reported in each of the previous three years, where available.

The water service providers must show within a year, all the audits undertaken in selected institutions.

Restriction on water use for irrigation

- 0 Water shall be used only for beneficial purposes and for the purposes applied for , prohibited water uses include but shall not be limited to:
 - 0 applying more water than is reasonably necessary to maintain a healthy landscape;
 - 1 watering with spray irrigation .
 - 2 using water for irrigation purposes during rain or high wind;

- 1 applying water intended for domestic use to an impervious surface such as a street, parking lot, side walk or driveway;
- 2 allowing water to pool or flow across the ground or into any drainage way such as gutters, streets, alleys, or storm drains;
- 3 failing to repair for a period of ten (10) days after notice, leaking or damaged irrigation component;
- 4 Unauthorised public Car washes.

Anybody who commits any of the prohibited water wastes described in paragraph one (1) above shall be guilty of an offence and liable to imprisonment for a term not less than three (3) months or to a fine of Kshs. 50,000.00 or both.

Efficient irrigation

Subject to regulations made by the Water Resources Management Authority, in order to extend the yield of Kenya's water supply and to encourage efficient use of water, the irrigation of large tracts of land with portable or recycled water will be subjected to special review by the Water Services Board in charge of the area in which the land is situate.

Promotion of use of Xeriscape principles

The Water Services Board shall encourage agricultural, floricultural and horticultural enterprises within their jurisdiction that rely on irrigation from their water supply to apply xeriscape principles in so far as they are practicable.

Use of water in industrial and commercial enterprises

(1) All industrial and commercial enterprises that rely on water for their heating, processing and cooling systems shall install water conservation devices conforming to such specifications as may be required by the Regulator on all their heating, processing or other industrial or commercial type of uses where recycling of the water without treatment is found practical in the judgment of the Regulator.

For purposes of this regulation, a water conservation device is any equipment, process or procedure whereby all water used for cooling, heating or processing is either consumed in the intended use or is recycled for the same purpose until it is unusable in the opinion of the Regulator.

Liability for failure to install water conservation devices

Any industrial or commercial enterprise that fails to install water conservation devices on their heating, cooling or processing systems as required by regulation 130 shall be guilty of an offence and shall be liable to punishment as prescribed by these regulations.

PART XIII

APPOINTMENT OF WATER SERVICE PROVIDERS

Appointment of a water service provider

(1) A Water Services Board shall contract a water services provider who shall be an agent and shall either be :

- 0 A company registered under the Companies Act and owned by private persons
- 1 A company registered under the Companies Act and formed by a local authority which was an undertaker within the terms provided under the repealed Water Act Cap 372
- 2 A trust registered under the laws related to trusts.
- 3 A Society registered under the Societies Act and owned by a community
- 4 A natural person who shall be a water vendor

The following minimum criteria shall apply before a water service provider shall be contracted.

(a) Financial capacity

(i) The water service provider shall have the financial capacity to run the water services according to the formula of Operating Ratio = 1.2 where operating ratio = operating revenue divided by operating expenses.

The revenue of the water services provision shall be kept separate and accounted for separately from any other revenue raised by businesses not regulated by the Water Act 2002.

0 Technical capacity

- 1 The water services provider shall have personnel trained and proficient in water services provision including operating and maintaining water and sewerage facilities as prescribed by guidelines issued by the regulator.
- 2 The water services provider shall have personnel trained in and proficient in keeping accounts and operating the billing, collection and accounting

system of the water service provider as prescribed by guidelines issued by the regulator.

- (iii) The water service provider shall have the infrastructure and facilities capable of delivering water service according to guidelines issued by the regulator.
- 3 The water service provider shall be a legal entity whose ownership structures shall be separate and distinct from the management structures.
- 0 Where the water service provider is not registered under sub regulation 1 (a) or (e) of this regulation stakeholders shall be incorporated in the ownership and governing structures of the provider in accordance with guidelines to be issued by the regulator.

Criteria of service at oversight level of the water service provider

Subject to any other rules issued under the Act , the directors / trustees or board equivalent of the Water Service Provider shall have the following qualifications :

Be residents of the area;

Shall not hold any political office

Be literate and numerate to a minimum O-Level standard ;

Have a minimum of seven years experience in a registered trade or profession;

Exhibit interest in the community affairs.

Shall not be a convicted criminal

Shall be representative of the gender and cultural outlook of the concerned community.

Size of governing body

Depending on the business of the Water Service Provider which is corporate entity a minimum of five and a maximum of eleven directors shall serve on the Board equivalent of the Water Services Provider subject to the relevant guidelines issued by the Regulator.

Eligibility of service provision agreement

The Water Service Provider shall only enter into a service provision agreement after the minimum criteria met above has been satisfied.

Performance indicators

The Water Services Provider shall run as a commercial entity in accordance with good business practices and shall adhere to the performance indicators agreed to with the Water Services Board in the service provision agreement and be subject to the direction issued by the Regulator in any or guidelines or orders.

Length of service provision agreement

A service Provision Agreement shall be for a minimum of five years and shall be renewable at the option of both parties and the approval of the regulator

PART XIV

FIRE PROTECTION

Fire protection services

(1) Private fire protection system services shall be used only for the discharge of water to extinguish fires and shall be equipped with backflow device detector assembly and bypass meter and it shall be an offence to use such water for purposes other than fire fighting, which offence shall be punishable in accordance with these regulations which shall also include a penalty charge to be determined by the water service board.

(2) Fire protection service to a premise shall be subject to the same backflow prevention regulations and requirements as prescribed by these regulations

Fire hydrants

(1) All Public and private fire hydrant materials and locations shall be as specified by the Water Service Board and its provider, which materials and locations shall be approved by the Water Service Board, and save for extinguishing fire, the water hydrant shall not be subjected to any other use.

Unauthorised use of fire hydrant

The Water Service Provider shall prescribe an 'unauthorized use of water fee' to be charged for the unauthorized use of water from a City fire hydrant in addition to the unauthorised user being liable for committing an offence under these regulations.

Fire hydrant installations

All Fire hydrants shall be installed as required by the local fire department and shall become a part of the distribution system to which they are connected, and shall be owned and maintained in the same manner as other parts of the distribution system.

All connections for privately owned non-distributor fire protection systems shall be licensed.

Private fire sprinkler systems shall be installed at the expense of the consumer at such locations as may be designated by the consumer and approved by the appropriate Water Services Board or its contracted agents.

(4)The fire officers in the local authority shall specify to the water service provider the location of new public fire hydrants and shall not install or relocate public fire hydrants at places different from those locations except where there is a physical obstruction which would prohibit the installation or use of a fire hydrant at that location.

PART XV

DISPUTE RESOLUTION

INITIATING DISPUTE RESOLUTION PROCESSES

Submission of a complaint

Every Water Service Provider shall have a Consumer Complaints Officer in charge of receiving, recording and attending to all the complaints made by consumers, as provided for in Part VII of these Regulations, and such officer shall be in charge of keeping and maintaining a register of all the complaints lodged with the Water Service Provider and of the action if any taken in response to such complaints.

(2)The officer shall keep in his office and make available to all consumers during normal working hours a complaints form.

(3)The consumer shall submit a complaint to the Water Service Provider in writing, by telephone, by fax, by E-mail or in person.

(4)In the event that the complaint is made orally and where the complainant cannot read or write, a member of Water Service Provider staff authorized to undertake such duties shall put the complaint in writing, provided that the complainant reserves the right to select some other person to record the complaint in writing on his behalf.

If the complaint is written by a person other than the complainant, the written record shall be read over and explained to the complainant, and a declaration to that effect recorded on the complaint.

(6)The complaint must contain:

- a) The full name, address and account number of the complainant;

- 0 Particulars of the complaint, attaching any document in support of the complaint;
- 1 The nature of the injustice suffered by the complainant as a result of the action or inaction of the Water Service Provider or its agents;
- 2 The relief being sought;
- 3 Any other matter relevant to the complaint.

Formal investigation of a complaint

The Water Service Provider shall undertake formal investigations into the complaint in a timely manner, with a view to arriving at a decision within Ten (10) working days, and at any time during these investigations, the Water Service Provider may request the complainant to provide additional relevant information.

Provided that if the investigation is not completed within the agreed period, the complainant will be informed of the reasons, and subsequently kept abreast of the progress on the investigations at regular intervals.

(2)The investigations may include site visits, evidence formally submitted by third parties and such other processes as the Water Service Provider may deem appropriate.

In evaluating the complaint the Water Service Provider will be guided by:-

- 0 The facts and circumstances of the complaint;
- 1 The Consumer contract between the Water Service Provider and the consumer;
- 2 Minimum service levels;
- 3 The Service Provision Agreement between the Water Service

- Provider and the Water Services Board;
- e. Standards for the provision of water services to consumers determined by the Regulatory Board;
- f. The Water Act and all other relevant laws, regulations and regulations;
- 4 The principles of natural justice.

Notice of decision

(1) Within ten (10) days, the complainant will be informed in writing of the decision reached by the Water Service Provider. The notice of the decision will record:-

- 0 The Water Service Provider's position with regard to the validity of the complaint;
- 1 Restatement of the facts of the case, including summaries of evidence strongly influencing the Water Service Provider's decision;
- 2 The legal considerations affecting the Water Service Provider's decision;
- 3 What actions, if any, the Water Service Provider proposes to undertake as a result of the complaint, including possible compensation as redress for losses experienced by the complainant;
- 4 Advice to the consumer that if he is dissatisfied with the decision of the Water Service Provider he may appeal to the Water Services Board or seek resolution through arbitration or litigation.

A copy of the decision will be forwarded to the appropriate Water Services Board and if the consumer is not satisfied with the decision of the Water Service Provider, he may attempt negotiation by requesting the Water Services Provider to reconsider its decision, indicating the areas of apparent weakness in the arguments on which it is based, after which reconsideration the Water Service Provider shall state its final position.

PART XVI

CONSUMER APPEALS

Appeal options

If the consumer remains aggrieved after being informed of the Water Service Provider's final decision he may:-

- 0 Appeal the decision to the Water Services Board of which the Water Service Provider is an agent,
- 1 Submit the issue(s) to arbitration by an arbitrator selected by both parties, or
- 2 Appeal to Water Appeals Board.

Initiation of appeal process

The appeal process shall proceed as follows:-

- 0 The complainant shall initiate the appeal by informing the Water Services Board in writing within Fourteen (14) days from the date of the award of his dissatisfaction with the decision of the Water Service Provider regarding his complaint, and requesting the Water Services Board to review and reconsider the complaint, and the appeal request will be accompanied by all documents submitted to the Water Service Provider, a copy of the Water Service Provider's decision, and a statement giving the grounds on which the appellant considers the Water Service Provider's decision to be unjust.
- 1 The appeal may be made by an Advocate of the High Court or any other qualified agent in that regard on behalf of the Appellant, provided that the detail and relationships of the third party must be declared.

Response to appeal by Water Service Board

Within Ten (10) working days of the notice of appeal, the Water Services Board shall inform the appellant of its receipt of the letter of appeal and inform him of its proposed course of action, and request any additional information it considers relevant to the issues in dispute and shall further inform the appellant that no further action shall be taken regarding the matter until the Water Services Board receives such additional information as requested

Action by water service board

The Water Services Board shall upon accepting the notice of appeal execute the following actions:-

Within Ten (10) working days after its acceptance of the notice of appeal, forward copies of the appeal documents to the Water Service Provider for its review, comment and record.

Within ten working days of receipt of the Water Services Board's notification of appeal, require the Water Service Provider to respond stating its position on the issues raised and attaching all supporting documentation.

After consideration of the evidence contained in the documents submitted to the appeal and before the tendering of arguments and arguments before it, the Water Services Board may decide to:-

0 Reject or admit the appeal without further consideration

1 Arrange hearings at which the disputants will be provided with an opportunity to present further arguments in support of their positions.

1 In arriving at its decision the Water Services Board will be guided by:-

0 The facts and circumstances of the appeal

- 1 The Consumer Contract between the Water Service Provider and the complainant
- 2 Minimum service levels
- 3 The Service Provision Agreement between the Water Service Provider and the Water Services Board
- 4 Standards for the provision of water services to consumers determined by the Regulatory Board;
- 5 The procedures established by the Regulatory Board for handling complaints made by consumers against Water Service Providers and licensees
- 6 The Water Act and all other relevant laws, regulations and regulations;
- 7 The principles of natural justice.

- 2 If the Water Services Board should decide not to give further consideration to the appeal it shall advise the appellant of his right to seek mediation or adjudication in furtherance of his cause to the Water Appeals Board.

If the Water Services Board decides to undertake hearings in considering the appeal, both parties to the dispute shall be informed of the time, dates and venue appointed for the hearings and advised that they may choose to have legal representation, and a target date for the conclusion of the hearings shall be established accordingly.

The hearings shall be presided over by a member or employee of the

Water Services Board appointed by the Chief Executive Officer and proficient in the area of dispute at hand.

- 0 If the dispute involves interpretation of the licence or guidelines issued by the Regulatory Board, the Water Services Board may seek the guidance of the Regulatory Board as to the correct interpretation of the relevant terms.

Decision of water service board

(1) Within 15 working days of the conclusion of the hearings the Water Services Board shall formally inform the disputant parties of its decision.

(2) In the event that the Water Services Board decides in favour of the appellant, it shall determine what compensation for damages, if any, should be paid to the appellant by the Water Service Provider.

(3) In the event that the Water Services Board decides against the appellant, the appellant shall be informed of his right to seek arbitration or appeal to the Water Appeals Board, and the Water Services Board shall write and inform the Regulatory Board of its decision, thereby forwarding a copy of the proceedings of the conduct of the hearings where applicable.

(4) In the event that arbitration is chosen, it shall be conducted in the manner enunciated in the Arbitration Act for the time being in force in Kenya.

(5) If a Water Service Provider considers itself aggrieved by a Water Services Board's decision in response to an appeal by a consumer, the Water Service Provider may appeal to the Water Appeals Board for re-consideration of the Water Service Board's decision, and the procedure would be similar to that outlined above.

(6) Special regard shall be had at all times for Water Appeals Board Regulations when executing an appeal.

PART XVII

ENFORCEMENT PROVISIONS

Offences

Any breach of the provisions of these regulations shall:-

- 0 Constitute a criminal offence punishable in accordance with the provisions of Sections 105 of the Water Act.
- 1 Constitute a wrong punishable by an award of penalties as against the offender in accordance with section 73 (3) of the Water Act;
- 2 Entitle the licensee or its authorized Water Service Provider to disconnect the services and to refuse to reconnect the same until a prescribed penalty is paid by the offending party.

Further offences

No person may:

Use water services otherwise than as permitted under the Water Act and/ or under these Regulations and for the avoidance of doubt;

- 0 Fail to provide access to any books, accounts, documents or assets when required to do so under the Water Act or under these Regulations;
- 1 Fail to comply with any condition attached to permitted water use under the Water Act and these Regulations;
- 2 Fail to comply with a directive issued under the Water Act and these regulations and unlawfully and intentionally or negligently tamper or interfere with any waterworks or any seal or measuring device attached to a waterworks;
- 3 Fail or refuse to give data or information, or give false or misleading data or information when required to give

information under the Water Act or under these Regulations;
Fail to register an existing lawful water use when required by the
Water service board and its authorised agent to do so;
Intentionally refuse to perform a duty, or obstruct any other person in
the exercise of any power or performance of any of that
person's duties in terms of the Water Act and these
Regulations;

Unlawfully and intentionally or negligently commits any act or
omission which pollutes or is likely to pollute a water resource
or water services ;
Unlawfully and intentionally or negligently commits any act or
omission which detrimentally affects or is likely to affect a
water resource or water services ;
Fail to register a dam with a safety risk;
Fail to comply with a temporary restriction on the use of water;
Commit contempt of the Water Appeals Board.

- b) Any person who contravenes any provision of sub regulation (a) is guilty of an offence and liable, on conviction, to a fine or imprisonment for a period prescribed under section 105 of the Act and any rules made there under.

Compensation

Where any person is convicted of an offence under this Act and—

Any person has suffered harm or loss as a result of the act or omission
constituting the offence; or

Damage has been caused to a water resource, the Court may, in the same
proceedings—

0 At the written request of the person who suffered the harm or

loss; or

At the written request of the Minister in respect of the damage caused to a water resource; and

In the presence of the convicted person, enquire without pleadings into the harm, loss or damage and determine the extent thereof.

Damages

After making a determination in terms of the above subsection, the Court may —

- 0 Award damages for the loss or harm suffered by the complainant referred to in the above section against the accused;
- 1 Order the accused to pay for the cost of any remedial measures to be implemented; and
- 2 Order that the remedial measures to be implemented, be undertaken either by the accused or the relevant water management institution.

Other orders

The Court may, on application by the Regulatory Board or by the Water Services Board concerned, grant an interdict or any other appropriate order against any person who has contravened any provision of these regulations, including an order to discontinue any activity constituting the contravention and an order to remedy the adverse effects of the contravention.

Power of Entry and Inspection

The water service board and its authorised water service provider may enter and inspect any premises for any purpose connected with the implementation or enforcement of these regulations , at all reasonable times, after having given reasonable written notice to the occupier of the premises of the intention to do

so.

Any entry and inspection must be conducted in with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.

(3) A person representing the water service board and its authorised agents must, on request, provide his identification.

Indemnification from Liability

Neither employees of the water service board nor any person, body, organization or corporation acting on behalf of the water service board is liable for any damage arising from any omission or act done in good faith in the course of his duties unless the damage is caused by a wrongful and intentional act or negligence.

Responsibility for Compliance with these regulations

The owner of premises is responsible for ensuring compliance with these regulations in respect of all or any matters relating to water and the installation and maintenance of sanitation.

The customer is responsible for compliance with these regulations in respect of matters relating to the use of any water and the installation and maintenance of sanitation.

Transitional arrangements

(1) Installation work authorised by the water service board or its agent prior to the commencement of these regulations or authorised installation work in progress on that date shall be deemed to have been authorised in terms of these regulations ; and the water service board may for a period of 90(ninety) days after the commencement of these regulations authorise installation work in accordance with the regulations that regulated that work immediately prior to the promulgation of these regulations.

No customer shall be required to comply with these regulations by altering a water installation or part of it which was installed in conformity with any laws

applicable immediately prior to the commencement of these regulations; provided that if , in the opinion of the water service board, the installation , or part is so defective or in condition of position that could cause water or undue consumptions or water pollution of the water supply of a health hazard, the water service board may by notice require the customer to comply the provisions of these regulations.

Repeal of existing water service by laws

The provision of any by laws relating to water services by the municipalities in the water service board area are hereby repealed insofar as they relate to matters provided in these regulations.

Short title and commencement

- (1) These regulations are called the water service regulations of thewater service board.
- (2) Subject to approval by the regulator the water service board may by notice in the Gazette, determine that provisions in these regulations listed in the notice , do not apply in certain areas within its area of jurisdiction listed in the notice from a date specified in the notice.
- (3) Until any notice contemplated in sub-regulation (2) is issued these regulation are binding.

FIRST SCHEDULE