

WATER (PLAN OF TRANSFER OF WATER SERVICES) RULES, 2005

[L.N. 101/2005.]

1. These Rules may be referred to as the Water (Plan of Transfer of Water Services) Rules, 2005, and shall be deemed to have come into operation on the 1st July, 2005.
2. In these Rules—

“**functions**” includes powers and duties;

“**interim water service provider**” means a water service provider appointed for the period ending 30th June, 2006;

“**local authority**” means a local authority within the meaning of the Local Government Act;

“**plan of transfer**” means the plan of transfer within the meaning of section 113 of the Act;

“**transfer date**” means the 1st July, 2005;

“**transferor**” means any person or body of persons any or all of whose functions become, by virtue of any provisions made under these Rules, functions of the water services boards;

“**transferred functions**” means any functions which, by virtue of any provisions made by or under this notice become functions of water services boards;

“**transitional period**” means the period of three years between the commencement of transfer and its completion.
3. The transfer of the functions of the management and operation of water services to the water services boards shall be carried out in accordance with the plan of transfer set out in Schedule.
4.
 - (1) Anything which, on the transfer date, is in the process of being done by or in relation to a transferor in the exercise of or in connection with any of the transferred functions shall continue to be done by or in relation to the transferee.
 - (2) Anything done by or in relation to a transferor before the transfer date in the exercise of, or otherwise in connection with, any of the transferred functions, shall as far as is required for continuing its effect on and after the transfer date, have effect as if it was done by or in relation to the transferee.
 - (3) Subrule (2) above shall apply in particular to any—
 - (a) decision, determination, declaration, designation, agreement or instrument made by a transferor;
 - (b) regulations or by-laws made by a transferor;
 - (c) licence, permission, consent, approval, authorisation, exemption, or dispensation of conditions granted by or to a transferor;
 - (d) notice, direction or certificate given by or to a transferor;
 - (e) application, request, proposal or objection made by or to a transferor;
 - (f) condition or requirement imposed by or on transferor;
 - (g) fee or charge payable by or to a transferor;
 - (h) appeal by or in favour of or against a transferor; or
 - (i) proceedings instituted by or against a transferor.
 - (4) Any reference in the foregoing provisions of this Rule to anything done by or in relation to a transferor includes a reference to anything which, by virtue of any enactment, is treated as having been done by or in relation to that transferor.
 - (5) Any reference to a transferor in any document constituting or relating to anything to which the foregoing provisions of this Rule apply shall so far as is required for giving effect to these provisions, be construed as a reference to the transferee.
5.
 - (1) On the transfer date—
 - (a) all rights, powers, and duties, liabilities relating to the provision of water services, whether

arising under any written law or otherwise, which immediately before the transfer date were vested in, imposed on or enforceable by or against the Director of Water, the Government or its corporations shall be transferred to and vested in, imposed on or enforceable by or against the water services boards;

- (b) private entities, community-based organisations, or non-Governmental organisations providing water services under previous water undertakership arrangements shall enter into management contracts with water services boards for appointment as water service providers;
- (c) all funds, assets and other property, movable and immovable, which immediately before the transfer date, were held for or on behalf of the Director of Water, the Government or its statutory corporations in the name of the Permanent Secretary to the Treasury, shall vest in the water services boards;
- (d) water services boards shall purchase, lease or otherwise acquire facilities owned by local authorities for provision of water services, on such terms and conditions as the Minister may approve;
- (e) all actions, suits or legal proceedings pending by or against the Government on behalf of the Ministry of Water and Irrigation or against any of its corporations shall be carried on as if they had been instituted by or against the water services boards, and no such action, suit or legal proceedings shall abate or be prejudicially affected by reason of the transfer;
- (f) every public officer having the power or duty to effect or amend any entry in a register relating to property, or to issue or amend any certificate or other document effecting or evidencing title to property and facilities, and being in possession of records evidencing exercise of functions related to the provision of water services under any legislation, shall, without payment of fee or other charge and upon request made by or on behalf of the water services boards, do all such things as are by law necessary to give final effect to the transfer of the property and access to records of functions referred to herein, above and more specifically in the plan of transfer:

Provided that such duty shall be without prejudice to any provision made by any other law in relation to functions of that public officer.

- (2) During the transitional period, the officers and servants of the Ministry engaged in the provision of water services shall be deemed to be on secondment to the water services boards for a period of three years after which they shall either—
 - (a) enter into written contracts of employment with those boards under section 54(3) of the Act; or
 - (b) be re-deployed in the Public Service.

SCHEDULE

[Rule 3.]

PLAN FOR THE TRANSFER AND OPERATION OF WATER SERVICES

Introduction:

The Act became operational on the 18th March 2003, providing the new legal and institutional framework for the management and development of Kenya's water resources as well as the provision of water services. To date all the institutions created by the Act have been set up and are in the process of operationalisation, and their responsibilities are as set out in Table I.

The Act provides the framework for the implementation of new institutional arrangements as follows—

- (i) The Authority shall be responsible for water allocation, source protection and conservation, water quality management and pollution control. Within the country-wide network of the Authority, catchment area committees shall advise on water resources conservation, use and apportionment, adjustment of grants, and cancellation or variation of water permits. The establishment and operation of water users' associations shall be encouraged and facilitated as fora for conflict resolution and co-operative management of water resources in catchment areas.
- (ii) The Regulatory Board shall be responsible for the regulation of water and sewerage services, including licensing, quality assurance, and issuance of guidelines

for tariffs and prices and dispute resolution.

- (iii) The water services board shall be responsible for the efficient and economical provision of water and sewerage services within its area of jurisdiction. Seven such boards have been established to cover the entire country. However, direct provision of water services shall be undertaken by water service providers who shall be agents of Water services boards except where the Regulatory Board is satisfied that the procurement of such agents is not possible or that provision of services by such agents is not practicable. The water service providers may be community groups, Non-Governmental Organisations, or autonomous entities established by local authorities or other persons.
- (iv) The Water Services Trust Fund shall assist in financing the provision of water services to areas without adequate water services. Trustees appointed and holding office under a Trust Deed prepared by the Minister shall manage the Fund.
- (v) The Water Appeals Board shall be responsible for the determination of appeals and disputes. The decision of this board shall be final, except in matters of law whereby an appeal shall lie to the High Court.
- (vi) The Ministry shall focus on policy development, sector coordination, monitoring and supervision to ensure equitable and effective water and sewerage services in the country, sustainability of water resources and development of water resources for irrigation, commercial, industrial, power generation and other uses.

Provision of services shall only be undertaken under the authority of a licence issued by the Regulatory Board to a water services board which in turn, shall contract a water service provider to provide services to consumers. Provision of water services shall involve two national institutions, the Regulatory Board and the Water Services Trust Fund, and the seven regional water services boards indicated in Table 2.

Responsibility for provision of water services is vested in the water services boards which are required to arrange for the efficient and economical provision of services in accordance with the national water services strategy and under the regulation of the Regulatory Board.

SCHEDULE—*continued*

TABLE 1 – RESPONSIBILITIES OF INSTITUTIONS ESTABLISHED UNDER THE ACT:

SCHEDULE—continued

TABLE 1 – RESPONSIBILITIES OF INSTITUTIONS ESTABLISHED UNDER THE ACT:

<i>Institution</i>	<i>Responsibilities</i>
Water Services Management Authority	Implementation of policies and strategies relating to management of water resources. Development of catchment level management strategies, including appointment of catchment area advisory committees and their facilitation.
Water Services Regulatory Board	Overseeing the implementation of policies and strategies relating to provision of water services. Regulating the provision of water supply and sewerage services. Licensing water services boards and approving their appointed water service providers. Monitoring the performance of water services boards and water service providers.
Water services boards	Planning for improvement in provision of water supply and sewerage services. Appointment and contracting water service providers. Asset holder of central government facilities.
Water Services Trust Fund	Assisting in the financing of provision water supplies in areas that are inadequately provided for.
Water Appeals Board	Adjudicating disputes between sector players.

TABLE 2 – WATER SERVICES BOARDS

<i>Name of Board</i>	<i>Districts</i>
Coast Water Services Board	Kilifi, Kwale, Lamu, Mombasa, Taita/Taveta, Tana River, Bura.
Athi Water Services Board	Kajiado, Machakos, Kiambu, Thika, Makueni, Nairobi.
Tana Water Services Board	Kirinyaga, Muranga, Nyeri, Embu, Mbeere, Kitui, Meru Central, Tharaka, Meru South, Meru North, Mwingi, Maragua.
Rift Valley Water Services Board	Nakuru, Narok, Baringo, Kelyo, West Pokot, Turkana, Kolbatak, Nyandarua.
Northern Water Services Board	Garissa, Ijara, Mandera, Wajir, Isiolo, Marsabit, Moyale, Laikipia, Samburu.
Lake Victoria North Water Services Board	Bungoma, Busia, Kakamega, Vihiga, Mt. Elgon, Lugar/Malava, Teso, Butere/Mumias, Uasin Gishu, Nandi North, Trans Nzola, Marakwet.
Lake Victoria South Water Services Board	Kisii Central, Gucha, Kisumu, Nyando, Siaya, Bondo, Homabay, Nyamira, Migori, Kuria, Suba, Rachuonyo, Kericho, Buret, TransMara, Bomet, Nandi South.

PART I – THE PLAN OF TRANSFER

I.A *Policy Principles and Service Delivery Institutional Framework:*

- (1) Provision of water services shall only be undertaken through the authority of a licence. (s. 56)
- (2) The licence to provide water services shall be issued by the Regulatory Board, to water services boards. (s. 57)

SCHEDULE—*continued*

- (3) The Water services boards, in turn, shall provide the licensed services through a contracted agent, the water service provider. (s. 55(1))
- (4) The Minister in charge of water shall be responsible for the development, gazettment and continuous review of a national water services strategy. (s. 49)
- (5) The transfer shall conform to all the requirements of the Act, in respect of the provision of water services and especially to the functions of the water service boards as stipulated in section 53.

I.B *The Subject of Transfer:*

Section 113(1) directs that the Transfer of Water Services Plan include management and operation of water services, viz.—

- (a) Taking over by Water Service Boards, of the overall administrative and legal responsibility for provision of water services previously vested with the Department of Water in the Ministry, (s. 113(2)(a)), except the direct operation of facilities, which is a function reserved for water service providers;
- (b) transferring ownership of facilities owned or used by Central Government and its parastatals, with or without liabilities, to Water Service Boards; (s. 113(2)(b));
- (c) providing a framework through which water services board can enter into suitable arrangements for accessing water services facilities owned or used by local government water service providers; (s. 113(2)(c));
- (d) providing a framework that will enable water services board to influence the use of water services facilities owned or used by Non-Governmental Organisations, Community Based Organisations or

community self-help groups. (s. 113(2)(c)).

- I.B.1 Transfer by the Ministry of overall administrative and legal responsibility for provision of water services to the water services boards.

This responsibility includes—

- (a) ensuring that provision of services is efficient and economical;
- (b) planning development of services and facilities to progressively increase access to services;
- (c) ensuring that assets or facilities it owns or has leased are properly maintained;
- (d) ensuring that water service providers maintain standards and guidelines set by the Regulatory Board;
- (e) assuming responsibilities of a water service provider of last resort in the absence of a water service provider.

- I.B.2 Transfer of ownership of Government-owned water services facilities to the water service board.

This ownership transfer encompasses—

- (a) fixed assets (land and buildings);
- (b) system facilities and plant;
- (c) operational assets, equipment, books and records; and
- (d) agreed liabilities and accounts receivable in accordance with the transfer agreement.

SCHEDULE—*continued*

The ownership transfer will commence with those facilities owned or used by the Ministry of Water and Irrigation and National Water Conservation and Pipeline Corporation before moving on to facilities owned or used by other Central Government Ministries, Departments or parastatals.

- I.B.3 Providing a framework through which a water services board can enter into suitable arrangements with local authorities for accessing facilities owned or used by local government service providers.

The framework encompasses—

- (a) recognition of partnership between a local authority and the water services board in the provision of water supply and sewerage services;
- (b) specification of the access a water services board will require in relation to a system owned by a local authority;
- (c) agreement on the terms and conditions of water services board accessing system facilities owned by local authorities and specification of instruments for such access, including purchase, lease, acquisition or any other legal arrangement under section 53(3);
- (d) creation by local authorities, of autonomous legal entities for provision of water supply and sewerage services in compliance with section 57(5)(e);
- (e) terms and conditions of appointment of such autonomous entities as water service providers;
- (f) terms and conditions of new investments within and among the system facilities owned or used by a local authority.

- I.B.4 Providing a framework which enables a water service board to influence the use of facilities owned or used by Non-Governmental Organisations, Community Based Organisations, self-help groups and small-scale water services providers.

This framework shall be flexible to suit the different circumstances obtaining in different water services board areas and shall include—

- (a) recognition of the role being played by community, self-help groups, community based organisations and Non-Governmental Organisations in the provision of supply and sanitation services;
- (b) engagement of these non-governmental initiatives into the development plans of the water services board;
- (c) continuation of the ownership and management of such facilities by their owners;
- (d) encouraging the separation of asset ownership and provision of services in these schemes that is the organisations employing professional management for operations and maintenance in compliance with section 57(5)(e);
- (e) maintenance, by such organisations, of proper accounts and records relating to provision of water services;
- (f) encouragement of such organisations and groups to continue investing in the development of facilities through water services board-approved development plans;
- (g) terms and conditions for adoption of management improvement programmes in service provision and in the maintenance of facilities, including management of demand and provision of resources for system renewal;
- (h) terms and conditions of undertaking additional infrastructural investment.

SCHEDULE—*continued*

PART II – THE PROCESS OF TRANSFER

II.A *Policy Principles on Time-Frame for Transfer:*

1. Section 113(1) directs that as soon as reasonably practicable after commencement of Part I of the Act the process of transfer shall commence with the development and gazettment of the transfer plan.
2. The Act commenced on 18th March, 2003 and the transfer shall be completed by 30th June, 2006, after which date Ministry and the National Water Conservation and Pipeline Corporation shall no longer be operating or maintaining any water supply and sewerage service except as may be required by section 67(2).
3. The transfer shall be as smooth as practically possible and disruptions and interruptions to existing services shall be held at a minimum.
4. Commencement of this transfer plan shall also mean suitable changes to the conditional licences already issued to water services boards by the Regulatory Board.
5. Detailed implementation and actualisation of the various components of the transfer will be effected during the period, 1st July 2005 to 30th June, 2008.
6. During the period ending on 30th June, 2006, water service boards shall retain, but where necessary reinforce on secondment existing scheme level staff in the provision of services, after which period and with the approval of the Regulatory Board, appoint a suitable water service provider. Whenever a water service board wishes to appoint a water service provider it shall do so with concurrence of the Regulatory Board.
7. Local authorities providing water services under previous water undertakership arrangements shall be required to comply with the provisions of sections 55(1) and 57 within 6 months of the coming into force of this transfer plan.
8. The Ministry, acting on behalf of water services boards, shall negotiate with other Government Ministries, departments and parastatals, for the transfer of ownership to water services boards of system facilities that they own or use for provision of water and sewerage services in compliance with section 113(2)(b).

II.B *The Schedule of Transfer:*

The following are the critical dates and milestones for the transfer—

TABLE 3 – TRANSFER ROAD MAP

<i>Activity</i>	<i>Commencement Date</i>	<i>Completion Date</i>
Transfer	1st July, 2005	30th June, 2006
Execution of transfer agreements	5th March, 2005	30th June, 2006
Supportive activities	1st January, 2005	Continuous
Identification and engagement of successor water service providers	1st July, 2005	30th June, 2008

II.C *The Transferee and the Transferor:*

1. The water services board is the transferee; the Ministry and the National Water Conservation and Pipeline Corporation are the initial transferors while other Government Ministries, Departments and corporations are subsequent transferors.
2. Where the system facilities and services cross water services board boundaries, the transfer will be to one of the water services boards and appropriate arrangements made for the other affected water services boards to access the use of the facilities.

SCHEDULE—*continued*

II.D *The Transfer Agreement:*

The transfers described will be affected by means of a legally binding agreement between Ministry, the National Water Conservation and Pipeline Corporation scheme-level establishments including their support structures and the relevant water services boards. The purpose of the transfer agreement is to—

- (a) impose, the legal responsibility for service provision on the appropriate institution;
- (b) define transitional matters, their effectiveness, and period of validity;
- (c) describe the system facilities, assets, liabilities, receivables, personnel and any other aspect that will be transferred;
- (d) outline the supportive activities, milestones and mutual obligations through which the transfer shall be actualised to completion by 30th June 2008 or earlier as the water services board may wish;
- (e) define the circumstances, terms and conditions under which the Ministry and the National Water Conservation and Pipeline Corporation scheme-level staff shall be retained on secondment for the period ending on the 30th June, 2006;
- (f) define, describe and specify financial arrangements for ensuring that provision of services is on sustainable, sound business and commercial basis as required by section 57(5)(d) and the entire spirit of reforms.

PART III – SUPPORTIVE ACTIVITIES TO THE TRANSFER PROCESS

To actualise and make effective the transfers, many activities have been undertaken in the past and many more will be carried out in the future. Key among these are—

- (a) *implementation of the transitory clauses in the transfer agreement;*
- (b) undertaking key studies for informing and actualising the transfer;
- (c) structuring and re-organising the current Ministry and National Water Conservation and Pipeline Corporation structures for service provision by water service providers;
- (d) identification and recruitment of water service providers;
- (e) capacity building and training of Water Services Boards and water service providers;
- (f) finalising contractual and financial arrangements;

- (g) limited rectification of facilities and systems owned by Water Services Boards to operational status; and
- (h) arrangements for the provision of adequate and suitably qualified staff through recruitment.

III.A Implementation of the Transitory Clauses in the Transfer Agreement

Each transfer agreement shall contain a plan for completing the transfer by the 30th June, 2008. The Ministry shall assist each water services board to prepare the plan. The plan shall, among other considerations, give a broad framework specifying various transitional arrangements in respect to legal continuity, continued provision of services, staffing, finalisation of ongoing contracts and incoming of new provisions and arrangements. Central to these transitional arrangements are—

- (a) appointment of all water service providers, including Ministry and National Water Conservation and Pipeline Corporation scheme-level staff on secondment as the water service boards may require;

SCHEDULE—*continued*

- (b) retention, on secondment, of Ministry and National Water Conservation and Pipeline Corporation staff at existing terms of service for the period ending on the 30th June, 2006;
- (c) continuation of Ministry funding of operation and maintenance (including staff) costs for the duration of the interim water service provider status;
- (d) provision of adequate financial resources to meet non-staff operation and maintenance costs while taking into account revenues (billings and collections); and
- (e) continuation of existing consumer agreements and customer accounts.

III.B *Undertaking Key Studies*

The Water Services Boards in conjunction with the Ministry shall carry out detailed studies in respect to—

- (a) rapid situational assessment of water supplies and sewerage services at each water services board area providing—
 - (i) data and information pertaining to the overall water supply and sewerage services situation;
 - (ii) a broad inventory of all facilities; and
 - (iii) a listing of all current water service providers;
- (b) organisation and development study of Water Services Boards. Substantial institutional and organisational restructuring will be required and this study shall identify the institutional, structural and operational requirements including quality and quantitative staffing levels, of the transferred delivery system consisting of the Water Services Board and water service providers;
- (c) detailed assessment of schemes, services and facilities. Detailed technical, financial and service performance assessment shall be undertaken on each water service—
 - (i) whose ownership has been transferred from the Ministry or the National Water Conservation and Pipeline Corporation to the Water Services Board;
 - (ii) owned by a local authority, providing technical, financial and social appraisals and estimated investment requirements for the next ten years;
- (d) financial and economics study. Each water services board shall, with the assistance of the Ministry, commission a study to examine the financial and economic prospects and implications of providing water supply and sewerage services to its residents;
- (e) development plan for new schemes and expansion of existing ones. This will be a ten-year plan geared towards reaching areas not currently served and shall be inclusive of a funded and time-bound action programme taking into account Water Services Trust Fund-funded and new Community-based Organisation schemes. Its focus shall be unserved areas and shall include any

and all available technologies.

III.C *Structuring Monitoring and Supervisory Set-up for the New Service Delivery System*

The current Ministry and National Water Conservation and Pipeline Corporation organisational set-ups and structures consist of—

- (a) water services sections at the Ministry's provincial and district offices;

SCHEDULE—*continued*

- (b) National Water Conservation and Pipeline Corporation regional and scheme offices; and
- (c) numerous scheme offices as well as scheme committees at community and self-help water supplies and projects.

During the period ending on the 30th June, 2006 the water service boards shall take over all the relevant seconded staff for monitoring.

III.D *Identification and Recruitment of Water Service Providers*

The rapid situational assessment of water supply and sewerage services, already has compiled a list of all water supply and sewerage services and their corresponding water service providers. Water services board shall require each water service provider to be registered and shall open a register of water service providers containing relevant information.

The water services boards shall, additionally, open a register of water service providers appointed for the period ending on the 30th June, 2006.

During the period ending 31st December, 2007, the water services board shall identify and enter into negotiations with water service providers for each of the water supply and sewerage services and facilities within its area of jurisdiction. These negotiations shall be concluded as agreements by 31st March, 2008. Nothing in this transfer plan shall prevent the water services boards concluding the negotiations earlier than the stated period.

Enhancement of the capacities of the new water service providers who may need it shall be provided through specialised courses.

III.E *Capacity Building and Training of Water Services Boards and Water Service Providers*

To be effective the transfers shall require substantial training and capacity building to provide capacities to the new water services boards and the water service providers. Training of interim water service providers and their staff will be undertaken to ensure that the transition period introduces features of the new delivery system, especially its commercial nature.

III.F *Contractual and Financial Arrangements*

Already some agreements for appointing water service providers have been developed but, it is expected that refinements will continue to be made. Two basic model agreements will be particularly pertinent—

1. Agreement relating to appointment of a water service provider using Water Service Board-owned facilities. This agreement shall among other matters, address—
 - (a) conditions for maintaining, and expansion of facilities; and
 - (b) service, financial, revenue, technical performance indicators.
2. Agreement relating to appointment of a water service provider where facilities are not owned by the water services board. Such an agreement shall, among other matters, address—
 - (a) conditions on improvement of services;
 - (b) conditions on improvements in technical operation and maintenance;

- (c) conditions on water demand management, including pricing and tariffs;
- (d) accounting and auditing of the financial state of the service; and
- (e) service, financial, revenue, technical performance indicators.

SCHEDULE—*continued*

III.G *Rehabilitation of Transferred Water Services*

Each of the systems owned or managed by the Water Services Boards shall be rectified to operational status by 31st December, 2006.

III.H *Provisions relating to Staffing of the New Delivery System*

Policy Principles—

- (a) Provision of water services shall be adequately and appropriately staffed as per the standards set by the Regulatory Board.
- (b) For this reason, current employees of the Ministry and the National Water Conservation and Pipeline Corporation engaged in supervision and direct provision of water supply and sewerage services shall be retained on secondment to water service boards for the period up to 30th June, 2006, or earlier whenever a water services provider is appointed without prejudice to their pensions and other retirement benefits to which they are entitled under the relevant written law.
- (c) Thereafter, engagement of personnel shall be carried out by the respective institutions in accordance with their own requirements.

Staff Arrangements for the transition:

The new service delivery system has separated the ownership of public water supply and sewerage infrastructure and assets by Water Services Board and direct provision of services by water service providers that are expected to operate on the basis of sound business principles. There is already an established service delivery system staffed by employees engaged by the Ministry of Water and Irrigation, the National Water Conservation and Pipeline Corporation and various local authorities. Reform in the existing service delivery system shall affect directly the employment of these officers, who will be engaged by the water service providers as the latter take over their responsibility. Suitable arrangements shall be made to ensure that the sub-sector is staffed by competent personnel during the transition and subsequent periods as follows—

- (i) Ministry of Water and Irrigation and National Water Conservation and Pipeline Corporation and local authority employees shall be retained on secondment for the period ending 30th June, 2006;
- (ii) by 30th June, 2006 Water Services Boards shall have refined their organisational charts, structures and determined their direct staffing needs, that is expected to guide their personnel policies;
- (iii) water service providers shall be responsible for their own personnel policies within the guidelines provided by the Water Services Regulatory Board.

PART IV – FINANCIAL FRAMEWORK AND ARRANGEMENTS

IV.A *Policy Principles on Financial Arrangements for the Transfer*

The transfer process will meet the following types of financial requirements, namely—

- (a) once-off costs;
- (b) necessary operational costs during the period up to 30th June, 2008;
- (c) water operations stabilisation costs up to 30th June, 2009; and
- (d) staff rationalisation costs.

1. Once-off costs for the transfer will be met by the Ministry of Water and Irrigation.

SCHEDULE—continued

2. The Water Services Boards and the service providers shall become financially self-sustaining in terms of operation and maintenance not later than the 30th June, 2009.
3. Liabilities shall be negotiated on a case-by-case basis and agreement noted in the Transfer Agreement.
4. During the period up to the 30th June, 2008 the Government shall bear the full costs of operating and maintaining water services board-owned services in accordance with present arrangements which take into account appropriations-in-aid from each area. However, full disclosure of the recurrent and development budgets shall be made to Water Services Boards and district water officers shall avail copies of progress reports on budget implementation to those Boards. For this purpose the monitoring and evaluation section of the Water Services Board shall be set up.

Where a water service provider is appointed earlier than June, 2006, that provider shall take over from the Government the financing of operation and maintenance costs.

The Ministry shall meet the costs of personnel emoluments during the transitional period.

5. The Ministry of Water shall continue to raise resources for the sector, including through allocations approved by the Ministry of Finance. From the 2006/2007 financial year a major transformation in the mode of budgeting shall be made to make the Water Services Board the budget unit by aggregating district action plans into a Water Services Board action plan.
6. The allocations from the Ministry of Water and Irrigation to the Water Services Boards for operation and maintenance activities shall take into account the projected appropriations-in-aid for each Water Services Board such that Water Services Boards only receive the net Government allocation.
7. The Water Services Boards will be encouraged to support self-help schemes technically and in this regard all support from the Water Services Trust Fund shall be made known to the Water Services Board to enable the Water Services Board to monitor utilisation.

During the 2006/2007, 2007/2008 and 2008/2009 financial years and anticipated improvements in financial performance especially in revenue collection, the Ministry will provide operation and maintenance assistance upon request and justification by those Boards.

IV.B *Financial Arrangements for one-off Transfer Costs*

The Ministry will meet the costs of all once-off transfer activities, through budgetary allocations from the Ministry of Finance.

IV.C *Water Services Operation and Maintenance Support*

There are two kinds of support that are envisaged, namely—

1. Support to meet operation and maintenance costs for the period ending 30th June, 2006.
Policy Principles—
 - (a) Support will be similar to the current operation and maintenance budget, taking into account revenue from schemes;
 - (b) the water service providers appointed for the period ending 30th June, 2006, will be accountable to the Water Services Boards.
2. Support to stabilise operation and maintenance within schemes owned by the Water Services Board during the initial three-year period of assumption of full responsibilities.

SCHEDULE—continued

Policy Principles—

- (a) The amount of support will be based on the operation and maintenance costs to run the facilities previously owned by the Ministry of Water and Irrigation and the National Water Conservation and Pipeline Corporation and will take into account the revenue generated by the Water Service Boards;
- (b) the amount of support shall be paid directly to the Water Services Boards to cover operation and maintenance costs of the services taken over from the Ministry and the National Water Conservation and Pipeline Corporation, including staff costs;
- (c) support will be for a fixed three-year term commencing 1st July, 2006 and ending on 30th June, 2009;
- (d) the amount of support will be released upon justifiable request by Water Services Boards and will be based on the Government policy on support to its corporations