



ST HELENA

**(Chapter No. not allocated yet)**

## **UTILITY SERVICES ORDINANCE**

### **Non-authoritative Consolidated Text**

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Whilst it is intended that this version accurately reflects the current law, users should refer to the authoritative texts in case of doubt. Enquiries may be addressed to the Attorney General at Essex House, Jamestown  
[Telephone (+290) 2270; Fax (+290) 2454; email [pa.lawofficers@legalandlands.gov.sh](mailto:pa.lawofficers@legalandlands.gov.sh)]<sup>1</sup>

Visit our [LAWS page](#) to understand the St. Helena legal system and the legal status of this version of the Ordinance.

This version contains a consolidation of the following laws—

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### **UTILITY SERVICES ORDINANCE**

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Ordinance 3 of 2013 ... in force on 1 April 2013

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<sup>1</sup> These contact details may change during 2011 or early in 2012. In case of difficulty, email [shgwebsite@sainthelena.gov.sh](mailto:shgwebsite@sainthelena.gov.sh) or telephone (+290) 2470.

## UTILITY SERVICES ORDINANCE

*(Ordinance 3 of 2013)*

AN ORDINANCE TO ESTABLISH A UTILITIES REGULATORY AUTHORITY AND TO CREATE A LEGAL FRAMEWORK TO FACILITATE PRIVATE SECTOR PROVISION OF PUBLIC UTILITY SERVICES; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

### Commencement

*[1 April 2013]*

## PART I PRELIMINARY

### Citation and commencement

1. This Ordinance may be cited as the Utility Services Ordinance, 2013, and shall come into force on 1 April 2013.

### Interpretation

2. (1) In this Ordinance, subject to subsection (2), and unless the context otherwise requires—

“**Authority**” means the Utilities Regulatory Authority established by section 3;

“**public utility services**” means any or all of the following services provided (whether or not for payment or reward) by one person to another—

- (a) the generation, distribution or supply of electricity;
- (b) the collection, storage, treatment and distribution of water; and
- (c) the disposal of waste water;

“**Utilities Provider**” means a person licenced by the Governor in Council under section 6 to provide any public utility services in St Helena;

and words or expressions defined in the Electricity Ordinance, Cap. 107, or the Water Ordinance, Cap. 55, have the same meanings when used in this Ordinance.

(2) Regulations made under section 12 may provide that, in such circumstances as may be prescribed, activities specified in the Regulations shall not be regarded as public utility services.

## PART II UTILITIES REGULATORY AUTHORITY

### Utilities Regulatory Authority

3. (1) There is hereby established a Utilities Regulatory Authority.

(2) The members of the Authority shall be—

- (a) the Chief Magistrate (as Chairman); and

- (b) such other members as the Governor may (after consulting the Chairman) appoint by writing under his hand, but he may not appoint any person who is either a member of the Legislative Council or a director or employee of a Utilities Provider.
- (3) In appointing members under subsection (2)(b), the Governor shall have regard to any policy statement approved by the Governor in Council as to the skills, experience and knowledge which (if practicable) ought to be represented on the Authority.
- (4) The members appointed under subsection (2)(b) shall each be appointed for such period (not exceeding three years) as the Governor may determine, and shall be entitled to receive such remuneration and allowances (if any) as the Governor may from time to time approve, which shall be paid out of sums duly appropriated from the Consolidated Fund.
- (5) If the office of Chief Magistrate is vacant, or the holder thereof is absent or otherwise unable to act, the Governor (acting in his discretion, but after consulting the President of the Judicial Service Commission) may appoint a Justice of the Peace to act as Chairman of the Authority.
- (6) In the exercise of the powers conferred by this Ordinance, the Authority, and any person acting under the Authority's authority, shall act independently and shall not be subject to the direction or control of the Governor, the Executive Council or any other person or authority.
- (7) The Governor shall appoint a public officer to be the Secretary to the Authority.

### **Objective and duties of Authority**

4. (1) The objective of the Authority is to regulate the development and provision of public utility services in a manner which—
- (a) ensures that users of such services are protected from both unreasonable prices and unreasonably low levels of service;
  - (b) ensures (so far as is consistent with paragraphs (d) and (e)) that the prices charged for such services do not create unreasonable hardships for households or unreasonable hindrance to commercial and economic development in St Helena;
  - (c) motivates Utilities Providers to improve the quality of the services they provide;
  - (d) ensures stability and predictability in the public utilities industry in the medium and long terms;
  - (e) supports a progressive reduction in levels of subsidy from public funds; and
  - (f) has regard to such other regulatory objectives (if any) as may be prescribed.
- (2) It shall be the duty of the Authority, having regard to its objective set out in subsection (1), to carry out the functions prescribed by or under this Ordinance and to ensure that Utilities Providers comply with—
- (a) this Ordinance and any other Ordinance regulating public utility services;
  - (b) Regulations and Directives issued under any such Ordinances; and
  - (c) the conditions of their licence under section 6.

### **Powers of Authority**

5. (1) The Authority may, for the purpose of performing its duties under section 4, issue Directives to a Utilities Provider in connection with the provision of any public utility service; and, without prejudice to the generality, such Directives may impose requirements concerning—

- (a) the quality or standard of service which the Utilities Provider must deliver to its customers;
- (b) payments of compensation (or abatement of charges) to compensate customers when the service provided does not meet the standards so set;
- (c)<sup>2</sup> the maximum charges or fees to be levied by a Utilities Provider for providing the public utility service;
- (d) the terms and conditions on which public utility services are to be provided; and
- (e) such other matters (if any) as may be prescribed.

(2) All Directives issued under subsection (1) shall be published in the *Gazette*.

(3) Where a Directive issued under subsection (1) is inconsistent with any term or condition of a licence under section 6, such term or condition shall prevail:

Provided that, if a term or condition of a licence is lawfully amended (or additional terms or conditions are imposed), any Directive issued prior to the amendment shall prevail over the amendment.

(4) The Authority (or any person authorised by the Authority in that behalf) may, for the purpose of performing its duties under section 4, at all reasonable times (having given at least three days' notice) enter upon all or any premises used or occupied by any Utilities Provider for the purpose of inspecting books, documents and records kept by the Utility Provider in connection with its business as such.

(5) If the Authority is satisfied that a Utilities Provider has failed to comply with a Directive, or with a condition of its licence, the Authority may order the Utility Provider to pay a penalty not exceeding the sum of £100,000; and such penalty shall be payable and enforceable (and accountable for when paid) in every respect as if it were a fine imposed following a conviction in the Supreme Court; but the imposition of such penalty is not a conviction for a criminal offence.

### PART III LICENSING OF UTILITIES PROVIDER

#### Utilities Provider

6. (1) The Governor in Council may grant a licence to a person or persons to provide public utility services in St Helena upon such terms and conditions, not inconsistent with this Ordinance, as the Governor in Council may determine.

(2) A licence under subsection (1) may be granted in respect of all types of utility services, or in relation to such types thereof as are specified in the licence, and may apply in respect of services provided for the whole Island or for such part of the Island as may be specified in the licence.

(3) A licence under subsection (1) may be granted for such period (not exceeding 10 years) as the Governor in Council may specify in the licence.

(4) A Utilities Provider shall—

- (a) comply with all the lawful Directives issued by the Authority under section 5(1); and
- (b) perform and observe each and all of its obligations under its licence.

(5) Where a Utilities Provider is licenced—

- (a) to generate, distribute or supply electricity, the provisions of the Electricity Ordinance, Cap. 107, shall apply to such Utilities Provider;

<sup>2</sup> Direction for Maximum Electricity and Water Tariffs issued in Gazette Notice No. 21 of 26 March 2014, Gazette Notice No. 50 of 31 March 2015, Gazette Notice No. 56 of 29 February 2016 and Gazette Notice No. 148 of 29 September 2017.

- (b) to collect, store, treat or distribute water, or to dispose of waste water, the Water Ordinance, Cap. 55, shall apply to such Utilities Provider.

### **No person other than Utilities Provider to provide public utility service**

7. No person, other than a Utilities Provider licenced under section 6, may provide any public utility service within St Helena and any person who contravenes this section is guilty of an offence for which the maximum penalty on conviction is imprisonment for two years or a fine.

### **Revocation of licence**

8. (1) A licence granted under section 6 may, notwithstanding anything contained therein or any terms and conditions relating thereto, be revoked by the Governor in Council upon recommendation of the Authority, where the Utilities Provider is in substantial and continuing breach of—

- (a) any of the provisions of the licence;
- (b) any Directives issued by the Authority under section 5(1); or
- (c) any other obligations under this Ordinance.

(2) The Governor in Council shall not exercise the power granted by subsection (1) unless the Utilities Provider has been given notice of the proposal to do so and allowed a period of at least 28 days to show cause why the licence should not be revoked.

(3) The Governor in Council shall notify a Utilities Provider in writing of the revocation of a licence and such revocation shall take effect from the date specified in the notice, which shall not be earlier than 30 days after the date of such notice.

(4) Where—

- (a) a Utilities Provider, being a body of persons (whether incorporated or not), is dissolved or goes into liquidation (otherwise than for the purposes of a reconstruction which the Governor is satisfied does not destroy the identity of the body of persons); or
- (b) a Utilities Provider ceases to engage in providing public utility services as part of its business; or
- (c) due to the happening of any other event (other than an assignment previously approved by the Governor) the rights conferred by a licence granted to a Utilities Provider vest in any other person,

the Governor may, by notice in writing to the Utilities Provider or to the receiver or liquidator thereof (as the case may be) revoke the licence and such licence shall thereupon cease, but without prejudice to any antecedent rights and liabilities.

(5) The revocation of a licence in accordance with this section shall not in any way prejudice or prevent the Utilities Provider from recovering any debt or charge due to it from any person in respect of public utility services provided before the revocation of the licence.

### **Right to compensation**

9. (1) Whenever a licence of a Utilities Provider comes to an end and it is not renewed for a period commencing with the expiry of that licence, the public utility service assets (as defined in subsection (5)) shall thereupon vest, without any deed or other instrument of transfer, in Her Majesty in right of Her Government of St Helena, and the said Government

shall pay to the Utilities Provider compensation in accordance with the provisions of this section.

(2) Subsection (1) applies regardless of whether the licence of the Utility came to an end by reason of effluxion of time or by revocation.

(3) Where a licence has come to an end by revocation, the amount payable to the Utilities Provider by way of compensation shall, notwithstanding subsequent provisions of this section, be abated or reduced by any damage or loss suffered by the Government arising out of or in connection with the breaches of the obligations of the Utilities Provider which resulted in the revocation of the licence.

(4) The compensation payable under this section is the fair value of its public utility service assets in St Helena.

(5) In subsection (4)—

**“public utility service assets”** means—

- (a) the land, buildings (and contents thereof), including staff quarters (if any), plant, apparatus, spares, stores and other articles in St Helena belonging to and reasonably used or intended to be used by the Utilities Provider in the provision or operation of the public utility service; and
- (b) all reasonable outstanding commitments incurred by the Utilities Provider in providing such public utility service in St Helena;

**“the fair value”** means the fair value at the time of the cessation of the licence, due regard being had to—

- (a) the replacement value of the asset;
- (b) the age and standard life expectancy of the asset; and
- (c) the condition of the asset.

(6) If the licence of the Utilities Provider was determined by the Government under any provision of the licence enabling the Government to determine the licence by written notice, the Government shall not by virtue of any provision of this section be obliged to pay any compensation to the Utilities Provider in respect of any major extension or major renewal of any of the equipment, plant, apparatus or buildings in St Helena of the Utilities Provider effected after the service of such notice of determination unless, prior to such major extension or major renewal the Utilities Provider served notice in writing upon the Government applying to the Government for its consent thereto and either—

- (a) the Government gave consent to such major extension or renewal; or
- (b) the withholding of such consent was, in the circumstances of the case, unreasonable.

(7) If the Government and the Utilities Provider are unable to agree together the amount of compensation to be paid to the Utilities Provider under the provisions of this section then, at the instance of either the Government or the Utilities Provider, the matter shall be referred to arbitration in accordance with the arbitration law of St Helena for the time being in force and the determination in such arbitration, subject to any right of appeal, shall be binding on the Government and the Utilities Provider.

(8) Any compensation payable by the Government to a Utilities Provider under the provisions of this section shall be paid forthwith upon the amount thereof being agreed between the Government and the Utilities Provider (or, if not agreed, determined by arbitration under subsection (7)) and shall stand charged upon the Consolidated Fund until paid.

## Judicial Review

**10. (1)** No appeal shall lie to any court against—

- (a) any Directive issued under section 5 or any other action of the Authority; or
- (b) any revocation of a licence, under section 8,

but nothing in this section prevents any person aggrieved by any such Directive, action or revocation from applying to the Supreme Court for judicial review:

Provided that any application for leave to apply for judicial review shall be filed in the Supreme Court within 28 days of the date on which the applicant became, or could with reasonable diligence have become, aware of the Directive, action or revocation.

**(2)** Without prejudice to any other power of the Supreme Court upon an application for judicial review, the Court may, on granting leave to apply—

- (a) order that the Directive, action or revocation concerned shall be suspended; and
- (b) make such other interim orders (if any) as appear to the Court to be just.

## PART IV MISCELLANEOUS

### Subvention or subsidies by Government

**11. (1)** The Financial Secretary may pay to a Utilities Provider, out of sums duly appropriated or deemed to have been appropriated from the Consolidated Fund, such sums as may from time to time be authorised by the Governor in Council by way of grant to support either capital or recurrent costs of the Utilities Provider.

**(2)** Grants made under subsection (1) may be made unconditionally or subject to such conditions as the Governor in Council considers necessary or desirable to ensure that the sums so paid are applied only for the purposes intended in the making of the grant.

**(3)** Without prejudice to the generality of subsection (2), conditions may concern any of the following matters:

- (a) circumstances in which the Utilities Provider shall charge, for the services it provides to its customers, fees or charges less than the maximum fees or charges permitted by a direction under section 5(1)(c);
- (b) actions which the Utilities Provider must take (or refrain from taking) in relation to the maintenance, development or expansion of the infrastructure used by the Utilities Provider to supply public utility services;
- (c) the keeping of accounts and other records concerning the use of the grant, and the production of those accounts and records to the Financial Secretary for inspection.

### Regulations

**12. (1)** The Governor in Council may make regulations generally for the purposes of carrying into effect the purposes of the Ordinance, and in particular, without prejudice to the generality of the foregoing, may prescribe—

- (a) provisions to supplement Part II as to the functions and powers of the Authority;
- (b) provisions to safeguard the facilities and infrastructure used for purposes of providing any utility service.

(2) Without prejudice to the generality, subsection (1)(a) enables the making of regulations as to the procedures to be adopted or followed by the Authority, persons or bodies of person whom it must consult before issuing any Directive, and matters which it must (or must not) take into account when exercising any of its powers.

### **Repeal and amendment of legislation**

13. (1) The Jamestown Drainage Ordinance is repealed.

(2) The legislation listed in the first column of the Schedule is amended to the extent indicated in the second column thereof.

## **PART V TRANSITIONAL PROVISIONS**

### **General transitional provisions**

14. (1) All consumers to whom public utility services were provided under an agreement with the Government immediately before commencement of this Ordinance, shall be deemed to have entered into an agreement with the Utilities Provider for such services under the same terms and conditions until Directives regulating any such terms and conditions are issued by the Authority under section 5(1).

(2) Subject to subsection (3), any regulations in force under—

(a) section 7(1)(a) and (b) of the Electricity Ordinance, Cap. 107; or

(b) section 5 of the Water Ordinance, Cap. 55,

immediately before commencement of this Ordinance shall have effect as if they were Directives issued under section 5(1)(c) of this Ordinance providing that the maximum fees and charges which may be levied are the amounts of the fees and charges prescribed therein.

(3) Subsection (2) has effect until 1 April 2014, or such later date as new Directives are issued under that subsection.

### **Transfer of assets**

15. (1) In this section, ‘relevant asset’ means any property (whether real or personal, and including choses in action, interests, rights, privileges, and any other intangible property of whatever nature) vested in Her Majesty in right of Her Government of St Helena which, on 31<sup>st</sup> March, 2013, was used by any organ of the said Government for the purpose of, or in connection with, the provision by that Government of public utility services.

(2) On or after the date on which a licence is issued to a Utilities Provider under section 6, all relevant assets previously in use for, or in connection with, the provision of the public utility service which that Utilities Provider is licensed to provide, shall upon certificate under the hand of the Financial Secretary vest in that Utilities Provider:

Provided that the Financial Secretary shall not issue such certificate unless he is satisfied that the Utilities Provider has provided to the Government shares or other assets equivalent to the value of the assets so transferred)

(3) If any question arises as to whether any particular property, asset, interest, right, or privilege, has been vested in a Utilities Provider in accordance with this section, a certificate under the hand of the Financial Secretary (issued under subsection (2)) shall be conclusive evidence that the property, asset, interest, right, privilege, liability or obligation has or has not so vested:



(4) Every agreement (whether written or oral), and every deed or other instrument, relating to any of the relevant assets, to which any public officer was a party (in his official capacity) immediately before the date on which the asset was vested in a Utilities Provider, whether or not of such nature that the rights and liabilities thereunder could be assigned, shall have effect as from that date as if—

- (a) the Utilities Provider had been a party to such agreement, deed or instrument; and
- (b) for any reference to the relevant public officer there were substituted a reference to the Utilities Provider.

## SCHEDULE

Section 13(2)

### AMENDMENTS TO LEGISLATION

Legislation	Extent amended
Electricity Ordinance, Cap. 107	<p>The Ordinance is amended by deleting the references to the “Authority” wherever it occurs, other than in section 2, and substituting “Utilities Provider” therefor.</p> <p>Section 2 is amended—</p> <ul style="list-style-type: none"> <li>(a) by deleting the definition of “<b>the Authority</b>”;</li> <li>(b) by inserting the following definition after the definition of “<b>consumer</b>”: <ul style="list-style-type: none"> <li>“<b>Utilities Provider</b>” means a person licenced under section 6 of the Utility Services Ordinance, 2013, to provide public utility services relating to the generation, distribution or supply of electricity.”.</li> </ul> </li> </ul> <p>Sections 3 and 4 are repealed.</p> <p>Section 5 is amended—</p> <ul style="list-style-type: none"> <li>(a) by deleting the words in subsection (1) following paragraph (d) and substituting the following therefor: <p>“is guilty of an offence for which the maximum penalty upon conviction is a fine of £20,000 or imprisonment for a term of two years or both such fine and such imprisonment”;</p> </li> <li>(b) by deleting the words in subsection (2) following “indication” to the end and substituting therefor the words “is guilty of an offence for which the maximum penalty upon conviction is a fine of £1,000.”;</li> <li>(c) by adding the following subsection: <p>“(4) Where an offence under this Ordinance is committed by a body corporate, every director, manager, secretary or other similar officer of the body corporate is guilty of the like offence and liable to be proceeded against, convicted and punished accordingly:</p> <p style="padding-left: 40px;">Provided that a person shall not be liable to be convicted under this subsection if he shows that he was unaware (and could not by</p> </li> </ul>

	<p>reasonable diligence have been aware) of the acts or omissions which constituted the offence.”.</p> <p>Section 6 is amended—</p> <ul style="list-style-type: none"> <li>(a) by deleting the reference to “subsection (2) of section 6 of the Lands Acquisition Ordinance” and substituting “section 4 of the Land Acquisition Ordinance, 2006,” therefor;</li> <li>(b) by deleting the reference to “Chief Agricultural and Natural Resources Officer” and substituting “Utilities Regulatory Authority established by section 3 of the Utilities Services Ordinance, 2013,” therefor; and</li> <li>(c) by deleting the third proviso.</li> </ul> <p>Section 7(1) is amended by repealing paragraphs (a) and (b).</p>
Water Ordinance, Cap. 55	<p>The Long Title of the Ordinance is amended by deleting the words “establish a water authority with power to organise and”.</p> <p>The Ordinance is amended by deleting the references to the “water authority” wherever it occurs, other than the definition of “water authority” in section 2, and substituting “Utilities Provider” therefor.</p> <p>Section 2 is amended—</p> <ul style="list-style-type: none"> <li>(a) by inserting the following definition before the definition of “irrigation”: <ul style="list-style-type: none"> <li>“<b>Authority</b>’ means the Utilities Regulatory Authority established by section 3 of the Utility Services Ordinance, 2013;”</li> </ul> </li> <li>(b) by repealing the definitions of “irrigation”, “irrigation water”, “irrigation works”, “prescribed” and “water authority”;</li> <li>(c) by deleting the words “other than the property of Government, save as to leased properties,” in paragraph (a) of the definition of “private service”;</li> <li>(d) by inserting the following definition after the definition of “private service”: <ul style="list-style-type: none"> <li>“<b>Utilities Provider</b>’ means a person licenced under section 6 of the Utility Services Ordinance, 2013, to provide public utilities services relating to the collection, storage, treatment and distribution of water and the disposal of waste water;”;</li> </ul> </li> <li>(e) by adding the words “but does not include rainwater or similar natural occurrences of water” at the end of the definition of “waste water”;</li> <li>(f) by repealing the definition of “waste water drainage system” and substituting the following therefor: <ul style="list-style-type: none"> <li>“<b>waste water drainage system</b>” means the system of conduits which collects, conducts and disposes of waste water, all sewers, conduits, pipes, manholes and other appliances used, or intended to be used, for the reception, conveyance, removal and disposal of waste water; but excludes any such apparatus which forms part of a private</li> </ul> </li> </ul>

	<p>service;”;</p> <p>(g) by deleting the word “catchments” in the definition of “water supply system” and substituting “intake” therefore and deleting the words following the words “supplying water”.</p> <p>Sections 3 and 4 are repealed.</p> <p>Section 5 is amended by deleting the words from “and thereupon” to the end of the section.</p> <p>Section 6(2) is amended—</p> <p>(a) by repealing paragraphs (g) and (h); and</p> <p>(b) by adding the following paragraph:</p> <p>“(j) stop all traffic in any road or street whenever necessary during the execution of any works on the water supply system or waste water drainage system.”.</p> <p>Section 8 is repealed.</p> <p>Section 9 is amended—</p> <p>(a) by numbering the text of the section as subsection (1);</p> <p>(b) by deleting the word “catchment” in paragraph (a) and substituting “intake” therefor;</p> <p>(c) by adding the following subsection:</p> <p>“(2) If there is, in the opinion of the Utilities Provider, an emergency, the Utilities Provider may carry out any work whatsoever on a private service without the authority or agreement of the owner, and the owner shall nevertheless be liable and chargeable with the cost of the same provided that the work carried out without the authority of the owner shall be the minimum work required to deal with the emergency satisfactorily.”.</p> <p>Section 10 is amended—</p> <p>(a) by repealing the heading and substituting the following therefor:</p> <p>“Notice of work to be carried out”;</p> <p>(b) by deleting the reference to “Governor in Council” in subsection (3) and substituting “Authority” therefor;</p> <p>(c) by deleting the words from “objector or the” to the end and substituting “Utilities Provider may appeal in such manner as may be prescribed” therefor;</p> <p>(d) by repealing subsection (5).</p> <p>Section 11 is amended—</p> <p>(a) by deleting the words “three persons mutually agreed upon between the Governor and the person aggrieved” and substituting “the Authority” therefor; and</p> <p>(b) by deleting the word “majority”.</p>
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	<p>Section 12 is amended—</p> <p>(a) by repealing subsection (1) and substituting the following therefor:</p> <p>“(1) Section 4 of the Lands Acquisition Ordinance, 2006, shall apply to the payment of compensation for any damage caused by reason or in consequence of any works carried out in exercise of powers under section 9 in like manner as it applies to the payment of compensation in respect of a preliminary investigation”;</p> <p>(b) by repealing subsection (2);</p> <p>(c) by deleting the references in subsection (3) to “Magistrates’ Court” and “Court” and substituting “Authority” therefor.</p> <p>Section 13 is repealed.</p> <p>Section 14 is amended—</p> <p>(a) by deleting the words “or any irrigation works” in paragraph (a);</p> <p>(b) by adding the following paragraphs after paragraph (g):</p> <p>“(h) allows any waste water to flow along any surface gutter or canal or in any manner other than conveyed by means of pipes laid underground and connected with the waste water drainage system;</p> <p>(i) lays any pipe for conveying sub-soil drainage, rain water or surface water in such manner or in such position as to communicate directly or indirectly with the waste water drainage system.”;</p> <p>(c) by repealing the words following paragraph (g) and substituting the following therefor:</p> <p>“is guilty of an offence for which the maximum penalty on conviction is a fine of £50.”;</p> <p>(d) by adding the following subsection:</p> <p>“(4) Where an offence under this Ordinance is committed by a body corporate, every director, manager, secretary or other similar officer of the body corporate is guilty of the like offence and liable to be proceeded against, convicted and punished accordingly:</p> <p>Provided that a person shall not be liable to be convicted under this subsection if he shows that he was unaware (and could not by reasonable diligence have been aware) of the acts or omissions which constituted the offence.”.</p> <p>Section 15, other than the heading is repealed and the following is substituted therefor:</p> <p>“15. The Governor in Council may make regulations to enable the Utilities Provider to carry out their duties and exercise their powers under this Ordinance in the most efficient and equitable manner, including, but not limited to,—</p> <p>(a) provisions to regulate the construction and maintenance of irrigation works and control of water used for agricultural purposes to prevent waste or</p>
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	contamination of water; (b) provisions to restrict or control the use of water in the event of a water shortage; and (c) procedures relating to any appeal under the Ordinance.”.
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**EXPLANATORY NOTE**

*(This note does not form part of the Ordinance)*

This Ordinance establishes a legal framework within which public utility services (as defined in section 2) can be provided by a private sector operator instead of by the Government. The operator will need a licence, issued by the Governor in Council, and will be regulated by an independent Utilities Regulatory Authority.

That Authority will issue Directives to the service provider, covering things such as service quality, compensation for service failures, maximum prices, and terms and conditions of service.

Provision is made for the Governor in Council to continue the past practice of subsidising utility services.

Government assets previously used in connection with the supply of utility services will be transferred to the new provider, in return for company shares or other assets; and various changes are made to the Electricity and Water Ordinances to make them compatible with the new system.