



ST HELENA

REVISED EDITION OF THE LAWS, 2017

INFRASTRUCTURE & PUBLIC UTILITIES

WATER ORDINANCE, 1978¹

*Ordinance 15 of 1978
In force 15 December 1978*

*Amended by Ordinances 17 of 1987, 2 of 1989, 15 of 2007, 3 of 2013 (in force 1 April 2013)
Amended by L.N. 26/2009, L.N. 11/2010*

Subsidiary legislation:

WATER REGULATIONS, 1982

Legal Notice 12 of 1982

*Amended by L.N. 4/1993, L.N. 5/1996, L.N. 5/1999, L.N. 9/1999, L.N. 10/2008 ,
L.N. 12/2008, L.N. 14/2011, L.N. 8/2013, L.N. 10/2015 (in force 29 April 2015)*

WATER (TARIFFS) REGULATIONS, 2012

Omitted, as rendered obsolete by section 14 of the Utility Services Ordinance, 2013

See the Directives for Maximum Electricity and Water Tariffs:

G.N. 21 of 26 March 2014; G.N.50 of 31 March 2015;

G.N.56 of 29 February 2016

WATER ORDINANCE, 1978

ARRANGEMENT OF SECTIONS

1. Short title
2. Interpretation
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5. Water meters
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11. Claim in respect of insufficiency of water
12. Claim for compensation for damage

¹ Under section 10 of the Revised Edition of the Laws Ordinance, 1999 this text is authoritative and is the sole authentic edition in respect of the law contained in it as at 1 November 2017.

13. *Repealed*
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AN ORDINANCE to regulate water supplies and waste water disposal.

Short title

1. This Ordinance may be cited as the Water Ordinance, 1978.

Interpretation

2. In this Ordinance, unless the context otherwise requires—
 - “**Authority**” means the Utilities Regulatory Authority established by section 3 of the Utility Services Ordinance, 2013;
 - “**owner**” includes any person acting as agent for the owner, and, in the absence of the owner, if there is no agent, the occupier;
 - “**premises**” includes all land and buildings on the land;
 - “**private service**” means any pipe, tap, channel or contrivance used for—
 - (a) the conveyance of water from the water supply system on to any land or into any premises for the supply to and drawing off of water on the land or in the premises; and
 - (b) the drainage of waste water from any such land or premises, and includes any tank used for the storage of such waste water on such land or premises;
 - “**Utilities Provider**” means a person licensed 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;
 - “**waste water**” means liquid waste discharged by domestic residences, commercial properties, industry and agriculture but does not include rainwater or similar natural occurrences of water; and
 - “**waste water drainage system**” means the system of conduits which collects, conducts and disposes of waste water and 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 service;
 - “**water supply system**” means and includes all intakes, dams, boreholes, wells, tanks, conduits, pipes, sluices, valves, pumps and appliances controlled by the Utilities Provider for obtaining, storing, conveying or supplying water.

Water Authority

3. *Repealed*

Water rates

4. *Repealed*

Water meters

5. Whenever the Utilities Provider sees fit, the Utilities Provider may install one

or more meters to measure the amount of water supplied to any private service from the water supply system.

Functions, duties and powers of Utilities Provider

6. (1) The functions and purposes of the Utilities Provider are to—

- (a) develop, control, conserve and distribute fairly the water resources of St Helena; and
- (b) develop and control the conduction, collection and disposal of waste water, whether for domestic, industrial or farming purposes.

(2) Without affecting the duties and powers under subsection (1), the Utilities Provider may—

- (a) at all reasonable times enter upon any land or premises to inspect, repair or renew the water supply system, the waste water drainage system or any private service or irrigation work, on giving at least one hour's previous notice to the occupier of the land or premises, if practicable;
- (b) at the request of the owner, or with the owner's permission, connect any premises to the main or other pipes of the water supply system or waste water drainage system to establish a private service, and determine the material and fittings to be used for any private service, whether on installation, repair or renewal;
- (c) improve the efficiency of the flow in any stream or water-course serving the water supply system or waste water drainage system, including the removal of impediments;
- (d) shut off temporarily the supply of water from the main or other pipes used for the supply of water or drainage of waste water, as may be necessary in order to effect repairs or for other sufficient reason, on giving such notice as is reasonable in the circumstances;
- (e) regulate, reduce or suspend the supply of water from the main or other pipes as may be necessary in order to prevent waste or in the event of shortage of water;
- (f) subject to giving to the occupier one week's notice, enter upon any land for the purpose of surveying any water resources, irrigation work or drainage system, or determining the potential requirement for the same, or for constructing any type of water work or carrying out any work ancillary to the survey;
- (g) ...
- (h) ...
- (i) require, in respect of all systems or supplies of water for irrigating fields, market gardens or house gardens, that the supply be drawn from a stand pipe and require that such stand pipes be separately licensed on payment of an annual fee as specified in the licence;
- (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.

Private service to be provided with suitable stopcock

7. Every connection by which water can be drawn off from the water supply system to any private service must be provided with a suitable high pressure stopcock.

Cost of private service

8. *Repealed*

Additional powers of Utilities Provider

9. **(1)** Subject to section 10 and to the requirements of any planning or building control law, the Utilities Provider may—

- (a) construct on any land any water intake, dam, cistern, tank or trough, lay above or beneath the surface of such land any pipe line, and take water from any spring or stream for the extension of the water supply system from any source, but leaving a sufficient supply of water for the use of any person having a legal right to such water;
- (b) lay through any land, after due notice to the owner or owner's agent or occupier of the land, mains or branch mains necessary for the extension of the water supply system; and
- (c) construct a tank on any land and, after due notice to the owner or owner's agent or occupier of the land, lay above or beneath the surface, as appropriate, of any land any pipe line, mains or branch mains necessary for the extension of the waste water drainage system.

(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 is nevertheless liable and chargeable with the cost of the work.

(3) Any work carried out under subsection (2) without the authority of the owner must be the minimum work required to deal with the emergency satisfactorily.

Notice of work to be carried out

10. **(1)** Whenever the Utilities Provider proposes to exercise the powers under section 9, with regard to making any type of construction or pipe laying, the Utilities Provider must serve on the occupier and the owner and, if necessary, on the owner and occupier of any other property served by the same water flow or affected by the drainage of waste water, a notice setting out in general terms the work which the Utilities Provider proposes to carry out on the land in question, the object of the work, and the anticipated effect such work will have on the water flow or drainage of waste water, whether by way of development, abstraction, change of course or in any other way, and if necessary accompanied with a sketch plan.

(2) A notice under subsection (1) must also state that if the addressee has any objection to the proposed work, the addressee should lodge a written objection with the Utilities Provider within 3 weeks from the issue of the notice.

(3) A notice under subsection (1) is only effective if it is served on the addressee in St Helena, and if for any reason the notice cannot be served on the addressee in St Helena, the Utilities Provider must refer the matter to the Authority, who must decide how the notice is to be served, and the modifications required to the notice due to the addressee being then away from St Helena.

(4) The Utilities Provider must consider any objection received and endeavour to satisfy the objector and secure the withdrawal of the objection or other compromise: If

agreement cannot be reached and the objection is not withdrawn, either the objector or the Utilities Provider may appeal in the prescribed manner.

(5) *Repealed*

Claim in respect of insufficiency of water

11. Any person who has a legal right to water from any spring or stream from which water is obtained by the Utilities Provider under section 9(a) and who disputes the sufficiency of water left for the person's use from such spring or stream may have the question as to what constitutes a sufficient supply of water determined by the Authority, whose decision is final and binding.

Claim for compensation for damage

12. (1) Section 4 of the Land Acquisition Ordinance, 2006, applies 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 the same way as it applies to the payment of compensation in respect of a preliminary investigation.

(2) *Repealed*

(3) Wherever the owner or occupier of any land is under a legal obligation to provide or secure a supply of water or a system of drainage of waste water to any third person, and such legal obligation becomes impracticable to observe due to the exercise by the Utilities Provider of powers under section 9 -

- (a) the matter may be referred to the Authority under this section; and
- (b) the Authority must make any order that is appropriate and may discharge the owner or occupier of any land from any that legal obligation.

Irrigation water rates

13. *Repealed*

Offences and penalties

14. It is an offence for a person to—
- (a) wilfully damage or in any way interfere with the water supply system, waste water drainage system;
 - (b) wilfully waste or permit to run to waste water supplied by the water supply system to any premises;
 - (c) place or cause to be placed in any stream, spring, watercourse, catchment, conduit, cistern, tank, trough or pipe any foul or injurious matter liable to pollute or render the water therein unfit for use or to obstruct the flow of water;
 - (d) alter or change or cause to be altered or changed, without the permission of the Utilities Provider, any private service fitting with the intent to obtain thereby a larger supply of water from the water supply system;
 - (e) divert or cause to be diverted the course of any stream without the permission of the Utilities Provider;
 - (f) obstruct the Utilities Provider in the performance of the duties of the Utilities

Provider under this Ordinance;

- (g) place, or cause to be placed, in any conduit, tank or pipe any matter liable to obstruct the flow of waste water or alters or change, or cause to be altered or changed, any flow of waste water without the permission of the Utilities Provider;
- (h) allow 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;
- (i) lay 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.

Penalty: A fine of £50.

(4) Subject to subsection (5), if an offence under this Ordinance is committed by a corporate body, every director, manager, secretary or other similar officer of the body commits the like offence and is liable to be proceeded against, convicted and punished accordingly:

(5) A person is not be liable to be convicted under subsection (4) if the person shows that he or she was unaware (and could not by reasonable diligence have been aware) of the acts or omissions which constituted the offence.

Regulations

15. The Governor in Council may make regulations to enable the Utilities Provider to carry out the duties and exercise the powers of the Utilities Provider under this Ordinance in the most efficient and equitable manner, including, but not limited to—

- (a) provisions to regulate the construction and maintenance of irrigation works and control of water used for agricultural purposes to prevent waste or 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 this Ordinance.

WATER ORDINANCE, 1978

WATER REGULATIONS, 1982

(Section 15)

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Citation

1. These Regulations may be cited as the Water Regulations, 1982.

Interpretation

2. In these regulations, unless the context otherwise requires—
“consumption” means the supply obtained;
“customer” means a person who is approved under regulation 3(1);
“supply” means a supply of water provided by the Utilities Provider from the water supply system.

Approval of customer

3. (1) The Utilities Provider may approve, as a customer with respect to a supply of water from the water supply system to premises and drainage of waste water through the waste water drainage system from premises, any person who—

- (a) occupies the premises; or
- (b) is responsible for the management of the premises or any part of them; and
- (c) gives an undertaking, in a form the Utilities Provider specifies to pay any charge due in respect of the supply and drainage.

- (2) A person who is a customer may at any time apply to the Utilities Provider for cancellation of an undertaking given by the person under this regulation and the Utilities Provider must, if all charges due from the customer have been paid, cancel the undertaking whereupon the person ceases to be the customer.

Refusal of a connection or reconnection

4. The Utilities Provider may refuse to connect or reconnect a private service to the water supply system or waste water drainage system if—

- (a) the private service or any alteration to it is not approved by the Utilities Provider;
or
- (b) there is no customer for the private service.

Disconnection of private service

5. The Utilities Provider may disconnect a private service if—
- (a) any agreed charge in respect of the private service is not paid;
 - (b) there is no customer for the private service;
 - (c) the private service is constructed, installed or altered without the permission of the Utilities Provider;
 - (d) the customer, on receipt of a notice under regulation 8, fails to carry out the repairs or other works specified in the notice;

- (e) the Utilities Provider, or any person acting under the authority of the Utilities provider, is obstructed from entering the premises or carrying out any of the functions of the Utilities Provider under section 6 of the Ordinance; or
- (f) the Utilities Provider is satisfied that waste, misuse or pollution of the supply has occurred or is likely to occur.

Notice of disconnection

6. (1) Except in the case of an unforeseen emergency, prior notice of disconnection of a private service to any premises under regulation 5 must be served on the customer by the Utilities Provider and the notice must specify the reasons for the disconnection.

(2) Notice under subsection (1) must, if there is no customer, be served on the occupier of the premises or left at the premises.

Power of entry into premises

7. The Utilities Provider and any person acting under the authority of the Utilities Provider may enter at any reasonable time, or in case of urgency at any time, any premises to disconnect a private service.

Utilities Provider may require repairs to be carried out

8. The Utilities Provider may, if satisfied that a private service—

- (a) is in such a condition that waste or pollution of a supply has occurred or is likely to be caused thereby; or
- (b) has been altered without the permission of the Utilities Provider,

by notice require the customer to carry out the repairs or other works to the private service specified in the notice.

Liability for charges

9. (1) All charges arising in connection with or in consequence of a supply, including the charge for making a connection to the water supply system or waste water drainage system, are payable by the customer.

(2) The liability of a person who is a customer under an undertaking given under regulation 3 continues until—

- (a) another customer is approved by the Utilities Provider in the person's place; or
- (b) the undertaking is cancelled by the Utilities Provider.

(3) The liability under sub-regulation (2) continues as there mentioned, even if—

- (a) the person ceases to occupy the premises;
- (b) the person ceases to be responsible for the management of the premises or any part of them; or
- (c) the Utilities Provider exercises any power under regulation 4 or 5.

Charge for water

10. *Repealed*

Connection of private service

11. If the Utilities Provider approves a private service, the Utilities Provider must, on payment of a charge, connect the private service to the water supply system or waste water drainage system.

Disconnection or reconnection of supply at customer's request

12. (1) A customer who wants a private service to be disconnected must apply to the Utilities Provider, in a specified form and on payment of a charge, giving not less than 7 days' notice of the date on which the disconnection is to be made.

(2) A customer who wishes to have a private service which has been disconnected under sub-regulation (1) reconnected must apply to the Utilities Provider in a specified form, giving not less than 7 days' notice of the date on which the reconnection is to be made.

Method of disconnection

13. (1) Disconnection of a private service under regulations 5 and 12 may be effected by severing the private service from the water supply system or waste water drainage system, or by any other means which the Utilities Provider thinks fit.

(2) A private service which is disconnected under paragraph (1) may be reconnected by the Utilities Provider—

- (a)* on compliance by the customer with any requirement of the Utilities Provider relating to the reason for the disconnection; and
- (b)* on payment of the reconnection and maintenance charge for reconnecting a private service.

Utilities Provider may specify notices and forms

14. (1) A notice under these Regulations must be in writing and in a form specified by the Utilities Provider.

(2) The Utilities Provider may specify any forms required for the purposes of these Regulations.

Utilities Provider may limit use of water

15. (1) The Utilities Provider may, in the event of a water shortage, limit the use of water—

- (a)* by way of public notice published in one or more newspapers circulating on St Helena; and

(b) by announcing the content of such published notice on all local radio stations broadcasting on St Helena.

(2) A notice under paragraph (1)—

(a) may impose limitations on specific types of use of water or may limit all water use and may apply to the whole island or only to the areas stipulated in the notice; and

(b) applies until it is lifted by the Utilities Provider by public notice published and announced in the same manner as required for the notice under sub-regulation (1).

(3) The Utilities Provider may by written notice exempt any person or class of persons from the limitations imposed under this Regulation.

(4) A person who fails to comply with a notice issued by the Utilities Provider under sub-regulation (1) and who does not hold a notice of exemption under sub-regulation (3) commits an offence.

Penalty: A fine of £2,000 or imprisonment for 6 months, or both.
