

CHAPTER 317

THE NATIONAL WATER AND SEWERAGE CORPORATION ACT.

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CHAPTER 317

THE NATIONAL WATER AND SEWERAGE CORPORATION ACT.

Commencement: 22 December, 1995.

An Act to revise the objectives, powers and structure of the National Water and Sewerage Corporation.

PART I—INTERPRETATION.

1. Interpretation.

- (1) In this Act, unless the context otherwise requires—
 - (a) “authority” has the same meaning as in the Water Act;
 - (b) “chairperson” means the chairperson of the board;
 - (c) “corporation” means the National Water and Sewerage Corporation;
 - (d) “director” means a director of the corporation;
 - (e) “financial year” means the period of twelve months ending on the 30th of June of each year;
 - (f) “managing director” means the managing director of the board;
 - (g) “Minister” means the Minister responsible for water or natural resources;
 - (h) “performance contract” has the same meaning as in the Water Act;
 - (i) “public authority” includes any Government Minister, Government department or statutory authority or any local government body, any body provided for in the Local Governments Act and any water users association.
- (2) This Act binds the Government, every public authority and every person acting on behalf of the Government or a public authority.

PART II—CONTINUATION OF NATIONAL WATER AND SEWERAGE CORPORATION.

2. Continuation of National Water and Sewerage Corporation.

- (1) The National Water and Sewerage Corporation shall continue in

existence as a body corporate.

- (2) The corporation may—
 - (a) do and suffer all acts and things that bodies corporate may lawfully do or suffer;
 - (b) acquire, hold and dispose of real and personal property;
 - (c) sue or be sued in its corporate name.

3. Seal of the corporation.

(1) The official seal of the corporation shall be kept in such custody as the board may direct and shall not be used, except as may be authorised by the board.

(2) All courts shall take judicial notice of the seal of the corporation fixed to a document and, until the contrary is proved, the seal shall be deemed to have been duly affixed.

4. Objects and functions of the corporation.

(1) The objects of the corporation shall be to operate and provide water and sewerage services in areas entrusted to it under the Water Act.

- (2) The functions of the corporation shall be—
 - (a) to manage the water resources in ways which are most beneficial to the people of Uganda;
 - (b) to provide—
 - (i) water supply services for domestic, stock, horticultural, industrial, commercial, recreational, environmental and other beneficial uses;
 - (ii) sewerage services, in any area in which it may be appointed to do so under this Act or the Water Act, to the extent and standards that may be determined by its corporate plan, any performance contract, and regulations made under this Act or the Water Act.
 - (c) to do anything connected or incidental to the above;
 - (d) to develop the water and sewerage systems in urban centres and big national institutions throughout the country.
- (3) The corporation shall carry out its functions with a view—
 - (a) to providing its services efficiently and economically;

- (b) to exercising its powers in accordance with—
 - (i) any national action plan adopted under the Water Act; and
 - (ii) the economic, social and environmental policies of the Government.

(4) The corporation shall operate on sound commercial practice and shall ensure that its revenues are sufficient to provide for—

- (a) all depreciation, amortisation and interest costs;
- (b) all operation and maintenance costs; and
- (c) a reasonable return on investment.

5. Powers of the corporation.

(1) The corporation may do all things that are necessary for, or are in connection with, the achievement of its objectives and the performance of its functions.

- (2) Without limiting subsection (1), the corporation may—
 - (a) appoint agents and attorneys and act as an agent for other persons;
 - (b) set tariffs and charges, make and levy rates and fix terms and conditions for work done or services, goods or information supplied by it;
 - (c) engage consultants;
 - (d) provide consultancy and project management services;
 - (e) participate in the formation of a company, trust, partnership or other body;
 - (f) subscribe to or otherwise acquire, hold and dispose of shares in or debentures or other securities of a company;
 - (g) subscribe for or otherwise acquire, and hold and dispose of, any interest in a partnership or other body where it has interest;
 - (h) enter into partnership or any arrangement for sharing a profit, union of interest, cooperation, joint venture, reciprocal concession or otherwise, with any person or body carrying on or engaged in, or about to carry on or engage in, any business or transaction, whether within or outside Uganda, which is capable of being conducted so as to directly or indirectly benefit the corporation;
 - (i) apply for, obtain and hold, whether on its own behalf or jointly with any other person, any industrial property rights;
 - (j) assign or grant licences in respect of those industrial property

- rights, with or without charge;
- (k) enter into agreements and arrangements for the commercial exploitation of industrial property rights;
- (l) organise and conduct training programmes in connection with the provision of water and sewerage services;
- (m) provide specialist assistance relating to water supply or sewerage services to any public authority on such terms as may be agreed upon by the corporation and the public authority;
- (n) carry on, within or outside Uganda, any business or activity that is capable of being conveniently carried on by the corporation using the surplus resources that are not immediately required in carrying out the corporation's functions under this Act.

6. Delegation of powers.

- (1) The corporation may, by instrument under its official seal, delegate any of the powers of the corporation to—
 - (a) a director or a number of directors;
 - (b) an officer of the corporation, by name or by office within the corporation; or
 - (c) with the Minister's consent, any other person but shall not delegate any of the following powers—
 - (i) its powers of delegation;
 - (ii) powers to make regulations or byelaws;
 - (iii) powers to set tariffs or charges or to make and levy rates; and
 - (iv) any other power that may be specified by the Minister.
- (2) A delegation under subsection (1) may be revoked in writing; and any delegation shall not prevent the corporation from exercising the power, function, authority or discretion delegated.
- (3) A power delegated under this section shall be exercised or performed in accordance with the terms of the instrument of delegation.
- (4) Any delegate exercising a delegated power under this section may receive written or oral submissions from any person on any matter within the competence of the delegate.
- (5) Where the exercise of a power is dependent upon the opinion of the corporation and that power is delegated under this section, the delegate

may, unless the contrary intention appears, exercise the power upon his or her own opinion.

PART III—BOARD OF DIRECTORS.

7. Board of directors.

- (1) There shall be a board of directors of the corporation consisting of—
 - (a) the chairperson;
 - (b) the managing director; and
 - (c) seven other directors, one of whom must be the director of the directorate of water development.
- (2) The board shall be the policy making body of the corporation and shall—
 - (a) decide the policies and strategies to be followed by the corporation in achieving its objects and carrying out its functions;
 - (b) ensure that the corporation and the managing director perform their functions and exercise their respective powers in a proper, efficient and economical manner, in accordance with the policies and strategies established by the board.

8. Appointment of directors other than the managing director.

- (1) The directors, other than the managing director, shall be appointed by the Minister for a period of three years and shall be eligible for reappointment for another term.
- (2) The directors, other than the managing director, shall not be full-time officers of the corporation.
- (3) A director, other than the managing director, shall hold office on terms and conditions that may be specified in the instrument of appointment.
- (4) The corporation may pay to the directors, other than the managing director, subsistence, travelling or other allowances that the Minister may approve.

9. Qualifications of directors.

(1) In appointing the directors, the Minister shall appoint persons having qualifications relevant to, or experience in, the following fields—

- (a) the business of the corporation;
- (b) public finance, banking or economics;
- (c) water supply or sewerage engineering;
- (d) business management;
- (e) commerce or industry;
- (f) environmental management;
- (g) public health officer.

(2) The Minister may appoint a person employed by a public authority to be a director.

(3) In appointing a director under subsection (2), the Minister shall, after consultation with the chairperson and the Permanent Secretary of the Ministry responsible for water and natural resources, or the chief executive officer of the public authority concerned, appoint a person who is the most senior officer in that public authority who possesses the qualifications provided under subsection (1) and who shall—

- (a) have sufficient time to give due attention to the affairs of the corporation;
- (b) be in a position to represent and to commit that public authority in any matter at any meeting of the board; and
- (c) attend meetings of the board.

10. Chairperson.

(1) The chairperson shall convene and preside at meetings of the board and shall do all such other duties and functions that may be required under, or for better carrying out this Act.

(2) Where—

- (a) the office of chairperson is vacant; or
- (b) the chairperson is absent from Uganda or is, for any reason, unable to perform his or her functions,

the board shall elect one of its members to perform the functions and exercise all the powers of the chairperson.

11. Vacancies, resignations and removal from office of a director.

- (1) The office of a director shall be vacant if the director—
 - (a) without the board's approval, and without a reasonable cause, fails to attend two consecutive meetings of the board; or
 - (b) becomes bankrupt.

(2) A director, other than the managing director, may resign his or her office by writing to the Minister; but the resignation shall not become effective until it is accepted by the Minister.

(3) The Minister may remove a director, other than the managing director, from office for incompetence, impropriety or lack of appropriate care or attention to the discharge of the duties of a director.

(4) If a director is convicted of an offence relating to his or her duties as a director or any other criminal offence punishable by six months imprisonment without the option of a fine, the Minister or, in the case of the managing director, the board shall remove the director from office.

12. Delegation to the managing director.

The board may, in writing, delegate to the managing director any of its powers under this Act.

13. Pecuniary interest.

(1) For the purposes of this section, a pecuniary interest includes any direct or indirect pecuniary or other material interest of the director or the director's spouse.

(2) A director who has a pecuniary interest in any matter being considered or about to be considered by the board shall, as soon as practicable after the relevant facts have come to his or her knowledge, declare the nature of his or her interest at that meeting.

(3) The person presiding at a meeting at which a declaration is made under subsection (1) shall cause a record of the declaration to be made in the minutes of the meeting.

(4) After a declaration is made by a director, the director shall not be

present during any deliberation at that or any subsequent meeting with respect to that matter.

(5) If the director votes on a matter where he or she has a pecuniary interest, the vote shall be disallowed.

(6) In addition to the other obligations imposed upon a director by this section, the managing director shall give written notice to the chairperson of all direct and indirect pecuniary interests that the managing director has or acquires in any business or in any body corporate carrying on any business.

14. Proceedings of meetings of the board.

Meetings of the board shall be conducted as is provided in the Schedule to this Act.

15. Resolutions by circulation of documents.

(1) If a majority of the directors sign a document containing a statement that they are in favour of a resolution in terms set out in that document, a resolution in those terms shall be taken to have been passed at a meeting of the board held on the day on which the document is signed or, if the directors do not sign it on the same day, on the day on which the last director signs the document.

(2) Where a resolution is passed under subsection (1), all directors shall be immediately advised of the matter and shall be given a copy of the resolution.

(3) For the purposes of subsection (1), two or more separate documents containing a statement in identical terms, each of which is signed by one or more directors, shall be taken to constitute one document.

PART IV—STAFF OF THE CORPORATION.

16. Managing director.

(1) There shall be a managing director who shall be appointed by the board for a term of five years.

(2) The board shall appoint as managing director a person having special qualifications or experience in one or more of the areas specified in section 9(1) and who is a person of proven experience and competence in the management and operation of a public utility undertaking.

(3) The managing director shall hold office on a full-time basis.

(4) The managing director shall hold office, subject to this Act, on terms and conditions that may be approved by the board and specified in the instrument of appointment.

(5) The managing director shall be the chief executive officer of the corporation and, subject to this Act and directions of the board, shall be responsible for planning, organising, managing and controlling the activities of the corporation.

(6) The managing director may resign his or her office by writing delivered to the chairperson, but the resignation shall not become effective until it is accepted by the board.

(7) The board may remove the managing director from office for incompetence, impropriety or lack of appropriate care or attention to the discharge of the duties of his or her office.

17. Acting managing director.

The board may appoint a person to act as managing director during a vacancy in the office of managing director or during any period when the managing director is absent from duty or from Uganda or is, for any other reason, unable to perform the functions of his or her office.

18. Staff.

(1) The corporation may engage officers and employees that are necessary for the performance of its functions.

(2) The terms and conditions of appointment for employment shall be determined by the corporation.

(3) The corporation may pay such superannuation contributions, pension or retiring allowances or gratuities to the managing director or staff

of the corporation as the corporation may determine.

PART V—CORPORATE PLANS.

19. Corporate plans.

(1) The board shall from time to time prepare a three-year corporate plan.

(2) The first corporate plan shall come into effect on a date to be determined by the Minister.

(3) The board may review and revise a corporate plan at any time before the end of its period and shall review a plan at the written request of the Minister.

(4) The board shall submit to the Minister its corporate plan and any amendments as soon as is practicable after the corporate plan or amendment is made.

20. Matters to be included in a plan.

(1) A corporate plan shall be in a form approved by the Minister and shall include, among others, the following—

- (a) the objectives of the plan;
- (b) the overall strategies and policies that the corporation is to follow to achieve those objectives;
- (c) the services that the corporation expects to provide for each area for which the corporation is appointed a water supply or sewerage authority under this Act or the Water Act and the standards expected to be achieved in providing those services;
- (d) performance indicators and targets (whether financial or operational) as the board considers appropriate;
- (e) financial matters as is set out under section 22;
- (f) other information that the board may consider appropriate or as may be specified in writing by the Minister.

(2) A corporate plan shall be consistent with any water action plan established under section 17 of the Water Act.

21. Financial matters to be included in a plan.

Each corporate plan, for each area for which the corporation is appointed a water supply or sewerage authority under this Act or the Water Act shall state in relation to financial matters—

- (a) the financial target of the corporation;
- (b) the overall financial strategies, including the setting of tariffs and charges, the making and levying of rates, borrowing, investment, and purchasing and disposal strategies;
- (c) a forecast of the revenue and expenditure of the corporation, including a forecast of capital expenditure and borrowing;
- (d) details of the significant tariffs, rates and charges expected to be raised by the corporation and the basis on which those tariffs, rates and charges are to be raised; and
- (e) other financial information as the board may consider appropriate or as is specified in writing by the Minister.

22. Matters to be considered in financial target.

In preparing a financial target, the board shall have regard to—

- (a) maintaining the corporation's financial viability;
- (b) maintaining a reasonable level of reserves, so as to make provision for—
 - (i) estimated future demand for the services of the corporation;
 - (ii) improved accessibility of, and performance standards for, the services provided by the corporation; and
 - (iii) other matters that may be specified by the Minister in writing.

23. Variations to corporate plans.

(1) The Minister may, within sixty days after receiving a copy of a corporate plan and within thirty days after receiving a copy of a revised plan and after consultation with the board, direct the board to vary any aspect of the plan, including the period to which it relates.

(2) In exercising his or her powers under subsection (1), the Minister shall have regard to—

- (a) the effect of the variation on the corporate plan;
- (b) the effect of the variation on the services provided by the

- corporation; and
- (c) any other matter that the Minister may consider appropriate.

(3) A direction under subsection (1) shall be in writing and shall set out the Minister's reason for the direction.

24. Board to notify Minister of significant event.

If the board is of the opinion that matters have arisen—

- (a) that may prevent or significantly affect the achievement of the objectives of the corporation under the corporate plan;
- (b) that may prevent or significantly affect the achievement of the financial target under the plan,

the board shall immediately notify the Minister of its opinion and its reasons for the opinion.

25. Corporate plan to be followed.

(1) The corporation shall not make any major deviation from its corporate plan, unless it has first obtained the written approval of the Minister to do so, and the Minister shall react in thirty days; if he or she does not, the corporation may go ahead and operate.

(2) The Minister may issue guidelines as to what are major deviations for the purposes of subsection (1).

(3) The corporation shall not set tariffs, rates and charges otherwise than in accordance with its corporate plan.

PART VI—FINANCIAL PROVISIONS.

26. Funds of the corporation.

The funds of the corporation shall consist of—

- (a) money from time to time appropriated by Parliament for that purpose;
- (b) all monies received by the corporation for goods or services provided under this Act;
- (c) monies borrowed by the corporation; and
- (d) such other monies received by or made available to the corporation for purposes of performing its functions under this

Act.

27. Estimates.

(1) The managing director shall, not later than three months before the end of each financial year, prepare and submit to the board for its approval estimates of income and expenditure of the corporation for the next financial year and may, at any time before the end of a financial year, prepare and submit to the board for approval any estimates supplementary to the estimates of a current year.

(2) No expenditure shall be made out of the funds of the corporation unless the expenditure is part of the expenditure approved by the board under the estimates for the financial year in which that expenditure is to be made or in estimates supplementary to those estimates.

28. Accounts and records.

(1) The corporation shall keep proper accounts and records of the transactions and affairs of the corporation for each area in which it is empowered to supply water and sewerage services under this Act or the Water Act and shall keep records that are necessary to explain the financial operations and financial position of the corporation.

(2) The board shall—

- (a) ensure that all money payable to the corporation is properly collected and paid into one or more bank accounts in the name of the corporation;
- (b) ensure that all money expended by the corporation is properly expended and only for purposes authorised by or under this Act and that such expenditure is properly authorised;
- (c) ensure that adequate control is maintained over assets owned by, or in the custody of, the corporation;
- (d) ensure that all liabilities incurred by the corporation are properly authorised;
- (e) ensure efficiency and economy of operations and avoidance of waste and extravagance;
- (f) develop and maintain an adequate budgeting and accounting system;
- (g) develop and maintain an adequate financial control system.

29. Annual reports.

(1) The corporation shall in relation to each area in which it is empowered to supply water and sewerage services under this Act or the Water Act, in respect of each financial year, prepare an annual report containing—

- (a) a report of its operations during the financial year;
- (b) financial statements for the financial year,

and submit the report to the Minister not later than the 31st of October next following the financial year.

(2) The report of operations referred to under subsection (1)(a) shall—

- (a) report separately on the activities of the corporation in each area in which it is empowered to supply water and sewerage services;
- (b) be prepared in a form and contain information determined by the board to be appropriate;
- (c) contain a copy of any direction given by the Minister under this Act during the financial year; and
- (d) contain any other information required by the Minister.

(3) The financial statements referred to under subsection (1)(b) shall—

- (a) contain information determined by the Minister to be appropriate;
- (b) include an assessment of—
 - (i) the cost of carrying out the corporation's community service obligation;
 - (ii) the cost of implementing any directions given by the Minister under this Act;
 - (iii) the cost of carrying out any other obligation that is imposed on the corporation under this or any other Act and that requires it to act otherwise than in accordance with normal commercial practice;
- (c) be prepared in a manner and form approved by the Minister;
- (d) present fairly the results of the financial transactions of the corporation during the financial year to which they relate and the financial position of the corporation as at the end of that year;
- (e) be signed by the managing director of the corporation and by the chairperson and one other director.

(4) The persons signing the financial statement under subsection

(3)(e) shall state whether—

- (a) in their opinion, the financial statements present fairly the results of the financial transactions of the corporation during the financial year to which they relate and whether they sufficiently explain the financial position of the corporation as at the end of the financial year; and
- (b) at the date of signing the financial statements, they were aware of any circumstances that render any details included in the statements misleading or inaccurate and, if so, details of the circumstances.

(5) The Minister shall cause each annual report submitted under this section to be laid before Parliament within seven sitting days of Parliament after the report has been received by the Minister.

30. Audit.

(1) The financial statements under section 29(1)(b) shall be audited by the Auditor General.

(2) The auditor's report shall state whether the statements are correct and shall set out all matters falling within the normal duties of an auditor which, in his or her opinion, should be brought to the attention of the Auditor General, the corporation or the Minister.

(3) The auditor shall, as soon as is practicable, give a copy of his or her report to the Auditor General, the corporation and the Minister.

(4) The corporation shall pay the costs of any auditor engaged under subsection (1).

PART VII—GENERAL PROVISIONS.

31. Minister's directions to the board.

(1) The Minister may give written directions to the board on matters of general policy, and the board—

- (a) shall, subject to this Act, comply with those directions;
- (b) shall publish the directions in its annual report; and
- (c) may otherwise publish the directions in any manner it thinks fit.

(2) The Minister shall lay a copy of a direction given under subsection (1) before Parliament within fifteen sitting days, together with any statement of the corporation—

- (a) estimating the cost of complying with the Minister's direction; and
- (b) commenting on the feasibility of implementing that direction consistently with the action plan adopted under section 23 of the Water Act and the corporation's corporate plan.

32. Borrowing powers.

(1) The corporation may borrow such sums as may be required by it from sources within Uganda or, with the prior approval of the Minister responsible for finance, from sources outside Uganda for the purposes of—

- (a) meeting any capital expenditure;
- (b) discharging its functions under this Act,

on such terms as may be agreed between the corporation and the lender.

(2) The corporation may charge its assets, undertakings and revenues with the repayment of any money borrowed together with interest thereon and may issue debentures, bonds or other securities in order to secure repayment of any money borrowed.

(3) If the Minister responsible for finance approves borrowing from sources outside Uganda, the Government must guarantee the performance of any obligation undertaken by the corporation under this section.

33. Corporation property.

(1) All property owned by the corporation immediately before the commencement of this Act shall continue to be owned by the corporation.

(2) The board may decline to be appointed as an authority to succeed any body providing water supply or sewerage services under the Waterworks Act, the Water Act or any other Act, unless the assets relevant to that water supply or sewerage undertaking are vested in the corporation.

(3) Where assets of an authority providing water supply or sewerage services under the Waterworks Act, the Water Act or any other law are vested in the corporation, no compensation shall be payable by the corporation in respect of the transfer of those assets.

34. Protection from liability.

(1) Except as expressly provided under this Act, the corporation, the board, the directors or officers, other employees or agents of the corporation shall not be personally liable—

- (a) for any act done or omission made in good faith in the exercise of the powers or functions or in the discharge of their duties under this Act;
- (b) for failure to make available or to continue to make available any service authorised by this Act;
- (c) for any action taken in connection with the beneficial treatment of water for human consumption or fluoridation.

(2) Nothing in subsection (1) protects the corporation from a liability it may otherwise have for supplying water which does not comply with the water quality standards prescribed under this Act, the Water Act or any other law in relation to the supply of water.

35. Byelaws.

(1) The corporation may, subject to this Act, make byelaws regulating—

- (a) the procedure to be followed at meetings of the corporation;
- (b) the activities of the corporation;
- (c) the exercise of any power delegated by the board;
- (d) the procedure to be followed in relation to, and the contents of, any contracts for the provision of, services by the corporation under this Act or the Water Act;
- (e) the procedure to be followed in making other contracts by or on behalf of the corporation;
- (f) the duties, remuneration and conditions of service of officers and employees of the corporation;
- (g) the establishment and control of any superannuation, pension or provident fund scheme or insurance scheme for the benefit of officers and employees.

(2) Notwithstanding the Interpretation Act, byelaws made under subsection (1) may be published in such manner as the corporation sees fit.

36. Appointment as water or sewerage authority.

- (1) At the commencement of this Act and subject to subsection (3)—
 - (a) the corporation shall be deemed to have been appointed a water authority, a sewerage authority or both, as the case requires, under the Water Act, in any area in which it is empowered to supply either or both water and sewerage services under the National Water and Sewerage Corporation Decree, 1972, or the Waterworks Act;
 - (b) any area referred to in paragraph (a) shall be deemed to have been duly declared as either or both a water supply area or a sewerage area under the Water Act, as the case requires.

(2) Subject to subsection 48(3) of the Water Act, the corporation may be appointed as an authority for the purposes of that Act.

(3) The Minister may require the corporation to enter into a performance contract under section 48 of the Water Act in relation to any area for which it is appointed or deemed to be appointed under this section.

37. Regulations.

The Minister may make regulations generally to give effect to the purposes and provisions of this Act and to prescribe all matters that may be prescribed under this Act.

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Schedule.

s. 14.

Meetings of the board.

1. Subject to paragraphs 2 and 3, the board shall meet at least once in three months.
2. Subject to paragraph 3, meetings of the board shall be held at such times and places as the board may determine.
3. The chairperson may at any time convene a meeting and shall convene a meeting at the request of at least four directors.
4. The chairperson shall preside at meetings of the board; and in the absence of the chairperson, the members present shall elect one of their number to preside.
5. A simple majority of the directors for the time being shall constitute a quorum at any meeting of the board.
6. A question arising at a meeting shall be determined by a simple majority of votes of directors present and voting on that question; and in the case of an equality of votes, the person presiding shall have a casting, as well as a deliberative, vote.
7. The board shall ensure that minutes of all its meetings are kept.
8. The board may permit directors to participate in a particular meeting or all meetings by telephone or other means of communication.
9. A director who participates in a meeting under permission granted under paragraph 8 is to be taken to be present at the meeting.
10. Subject to this Act, the board may regulate its own proceedings.

History: Statute 8/1995.

Cross References

Interpretation Act, Cap. 3.

Local Governments Act, Cap. 243.

National Water and Sewerage Corporation Decree, Decree 34/1972.

Water Act, Cap. 152.

Waterworks Act, 1964 Revision, Cap. 137.
