



ST. HELENA

CHAPTER 55

WATER ORDINANCE and Subsidiary Legislation

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

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¹ These contact details may change during 2011 or early in 2012. In case of difficulty, email shgwebsite@sainthelena.gov.sh or telephone (+290) 2470.

CHAPTER 55**WATER ORDINANCE****ARRANGEMENT OF SECTIONS****SECTION**

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CHAPTER 55**WATER ORDINANCE**

(Ordinances 13 of 1978, 17 of 1987, 2 of 1989 and 15 of 2007 and Legal Notices 26 of 2009 and 11 of 2010)

AN ORDINANCE TO ESTABLISH A WATER AUTHORITY WITH POWER TO ORGANISE AND REGULATE WATER SUPPLIES AND WASTE WATER DISPOSAL.

Commencement

[15 December 1978]

Short title

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

Interpretation

2. In this Ordinance, unless the context otherwise requires—

“**irrigation**” includes drainage for the removal of water which is injurious to agriculture;

“**irrigation water**” means any water from any source used or intended to be used wholly or mainly for irrigation;

“**irrigation works**” includes any dam, borehole, well, weir, sluice gate, water gate, water channel, drainage way, pipe, sprinkler, water gauge, water meter or any other work or

appliance controlled by the water authority used in the obtaining, storage and distribution of water for irrigation purposes;

“owner” includes any person acting as agent for the owner, and, in the absence of the owner, if there be no agent, the occupier;

“premises” includes all lands and buildings thereon;

“prescribed” means prescribed by regulations made under this Ordinance;

“private service”² 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 other than the property of Government, save as to leased properties, for the supply to and drawing off of water on such land or in such 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;

“waste water”³ means liquid waste discharged by domestic residences, commercial properties, industry and agriculture; and

“waste water drainage system”⁴ means the system of conduits which collects, conducts and disposes of waste water;

“water authority”⁵ means the body responsible for the management and supervision of the water supply system, waste water drainage system, irrigation works, and the inspection of private services and includes any person acting under the authority;

“water supply system” means and includes all catchments, dams, boreholes, wells, tanks, conduits, pipes, sluices, valves, pumps and appliances controlled by the water authority for obtaining, storing, conveying or supplying water and includes, where the context so requires, all irrigation works controlled by the water authority.

Water authority

3.⁶ It shall be lawful for the Governor to appoint a water authority, which shall include representatives of the Legislative Councillors, with the functions, duties and powers set out hereafter; Provided that, at any time when there is no subsisting appointment under this section, the Council Committee having policy responsibility for this Ordinance shall be the Authority.

Water rates

4.⁷ There shall be levied, and paid into the Consolidated Fund such water charges, as may be prescribed from time to time by regulations made by the Governor in Council, in relation to services provided by the water authority under this Ordinance.

Water meter

5.⁸ Whenever the water authority shall see fit they may install one or more meters to measure the amount of water supplied to any private service from the water supply system and thereupon the amount charged in respect of the water supplied to any private service from the water supply system through that private service shall be in accordance with the meter readings

² Definition of “private service” substituted by Ord. 15 of 2007

³ Definition of “waste water” inserted by Ord. 15 of 2007

⁴ Definition of “waste water drainage system” inserted by Ord. 15 of 2007

⁵ Definition of “water authority” amended by Ord. 15 of 2007

⁶ Section 3 amended by L.N. 26 of 2009 and L.N. 11 of 2010

⁷ Section 4 substituted by Ord. 15 of 2007

⁸ Section 5 amended by Ord. 2 of 1989

and not by way of water rate, and the amount to be charged for water supplied through meters shall be as prescribed by regulations.

Functions, duties and powers of water authority

6.⁹ (1) The functions and purposes of the water authority are—

(a) to develop, control, conserve and distribute fairly the water resources of the Island; and

(b) to develop and control the conduction, collection and disposal of waste water, whether it be for domestic, industrial or farming purposes.

(2) Without prejudice to the duties and powers under subsection (1), the water authority may specifically—

(a) at all reasonable times enter upon any land or premises to inspect, repair or renew the water supply system or the waste water drainage system, any private service or irrigation work, provided that at least one hour's previous notice shall be given to the occupier, where practicable;

(b) at the request of the owner, or with his 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 therefrom;

(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, such notice being given 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) control the distribution of irrigation water, prescribe times of watering and amounts of water to be supplied and applied and arrange generally for the proper distribution and use of water, and prevention of waste or contamination;

(h) require any user of irrigation water to make and maintain such banks, drainage ways or channels on his land as may be necessary for the proper use of irrigation water and may withhold irrigation water from such land until such work has been completed to the satisfaction of the water authority;

(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 may require that such stand pipes be separately licensed and such annual fee paid therefor as shall be prescribed by regulation.

⁹ Section 6 substituted by Ord. 15 of 2007

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 shall be provided with a suitable high pressure stopcock.

Cost of private service

8. (1) The cost charged by the water authority in installing, repairing or renewing any private service with the agreement of the owner together with the cost of fittings provided by the water authority, shall be paid by the owner or tenant of the premises to the Consolidated Fund:

Provided that if the tenant pays such cost he shall be entitled to set off any such amount paid by him against the rent payable by him in respect of the premises in default of any agreement to the contrary between owner and tenant.

(2) The cost charged by the water authority in respect of any private service shall be a first charge on such premises, having a priority over all privileges and mortgages, and shall bind any person to whom the premises may be transferred by any means whatsoever.

(3) The water authority shall maintain a record of every such charge arising under the preceding subsection, and shall disclose the details of any such charge to any person who enquires whether or not any such charge exists in respect of named premises. A fee may be charged for every such enquiry.

(4) If there is, in the opinion of the water authority, an emergency, the water authority 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.

Powers of water authority

9. Subject to the provisions of section 10 and subject to the requirements of any planning or building control law it shall be lawful for the water authority—

(a) to construct on any land any water catchment, dam, cistern, tank or trough, to lay above or beneath the surface of such land any pipe line, and to take water from any spring or stream for the extension of the water supply system from any source:

Provided that a sufficient supply of water is left for the use of any person having a legal right to such water;

(b) to lay through any land, after due notice to the owner or agent of the owner, or occupier of such land, mains or branch mains as may be necessary for the extension of the water supply system; and

(c)¹⁰ to construct a tank on any land and to lay above or beneath the surface, where appropriate, of any land any pipe line, mains or branch mains, after due notice to the owner or agent of the owner or occupier of such land, as may be necessary for the extension of the waste water drainage system.

¹⁰ Section 9(c) added by Ord. 15 of 2007

Dealing with objections

10. (1)¹¹ Whenever the water authority propose to exercise their powers under section 9, with regard to making any type of construction or pipe laying, they shall serve on the occupier and the owner and, where 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 water authority propose 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 where necessary accompanied with a sketch plan.

(2) The notice shall also state that if the addressee has any objection to the proposed work, he should lodge a written objection with the water authority within 3 weeks from the issue of the notice.

(3) Such notice will only be 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 water authority shall refer the matter to the Governor in Council, who shall decide how the notice shall be served, and the modifications required to the notice due to the addressee being then away from St. Helena.

(4) The water authority shall consider any objection received and shall 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 water authority shall have the right of appeal in writing to the Governor in Council who shall make such order as shall appear just.

(5) Whenever the Governor in Council shall have made any order and the water authority seek to enforce such order and the water authority or any person authorised by them are unreasonably resisted by any person who is made aware that the entry is being made in accordance with the order of the Governor in Council, such person shall be guilty of an offence.

Claim in respect of insufficiency of water

11. Any person having a legal right to water from any spring or stream from which water is obtained by the water authority under section 9(a) who may dispute the sufficiency of water left for his use from such spring or stream shall be entitled to have the question as to what constitutes a sufficient supply of water determined by three persons mutually agreed upon between the Governor and the person aggrieved whose majority decision shall be final and binding.

Claim for compensation for damage

12. (1) The owner or occupier of any land who shall suffer damage by reason or in consequence of any works carried out in exercise of powers under section 9 and who shall claim to be compensated in respect of such damage, shall within a period not exceeding 12 calendar months from the completion of the works submit a claim to the water authority giving full particulars of the damage sustained and the compensation claimed.

¹¹ Section 10(1) substituted by Ord. 15 of 2007

(2) Should no settlement be agreed upon between the claimant and the water authority it shall be lawful for either party to refer to the Magistrates' Court for an award in settlement of such dispute. The Magistrates' Court shall have power—

- (a) to call for production of any document in the possession or power of either party which may be thought necessary for determining the matter in dispute;
- (b) to compel the attendance of and examine the parties or their witnesses on oath and administer the oaths necessary for that purpose; and
- (c) to do all things necessary or properly incidental to the making of such award.

Such award when made shall be binding and final.

(3)¹² 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 of powers under section 9 by the water authority, such matter may be referred to the Magistrates' Court under this section and the Court shall make such order as may be appropriate and shall have power to discharge the owner or occupier of any land from any such legal obligation as herein referred to.

Irrigation water rates

13. (1) The water authority may (with the approval of the Governor in Council) impose an irrigation water rate or where a meter is installed, a charge for irrigation water and the charges for irrigation water may be at a different rate than water used for other purposes whether the source or means of supply is the same or not.

(2) The water authority may relieve any land from the payment of irrigation water rate or charge, either conditionally or absolutely, and regulations may provide that no such irrigation water rate or charge shall be payable until water has been available on such land for a period long enough to allow a crop to be planted and gathered.

(3) If an irrigation water rate or charge is not paid when due, the water authority may withhold irrigation water from the land in respect of which the rate or charge is due until such time as the rate or charge has been paid.

(4) If in the opinion of the water authority the amount of irrigation water normally supplied to any land has not been supplied, the authority may make such reduction in the irrigation water rate or charge as shall appear reasonable to the authority.

Offences and penalties

14. Any person who—

- (a)¹³ wilfully damages or in any way interferes with the water supply system, waste water drainage system or any irrigation work;
- (b) wilfully wastes or permits to run to waste water supplied by the water supply system to any premises;
- (c) places or causes 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) alters or changes or causes to be altered or changed, without the permission of the water authority, any private service fitting with the intent to obtain thereby a larger supply of water from the water supply system;

¹² Section 12(3) substituted by Ord. 15 of 2007

¹³ Section 14(a) substituted by Ord. 15 of 2007

- (e) diverts or causes to be diverted the course of any stream without the permission of the water authority;
- (f) obstructs the water authority in the performance of their duty under this Ordinance;
- (g)¹⁴ places, or causes to be placed, in any conduit, tank or pipe any matter liable to obstruct the flow of waste water or alters or changes, or causes to be altered or changed, any flow of waste water without the permission of the water authority,

shall be liable on conviction to a fine not exceeding £50.

Regulations

15. The Governor in Council may make regulations to enable the water authority to carry out their duties and exercise their powers under this Ordinance in the most efficient and equitable manner, including the provision and use of finance, and may provide in such regulations for penalties not exceeding £50 for the breach of any regulation.

¹⁴ Section 14(g) added by Ord. 15 of 2007

WATER CHARGES REGULATIONS**ARRANGEMENT OF REGULATIONS****REGULATION**

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WATER REGULATIONS¹⁵ – SECTIONS 4 AND 15

(Legal Notices 12 of 1982, 4 of 1993, 5 of 1996, 5 of 1999, 9 of 1999, 10 of 2008, 12 of 2008 and 14 of 2011)

Commencement

[1 November 1982]

Short title

- 1.¹⁶ These regulations may be cited as the Water Regulations.

Interpretation

2. In these regulations, unless the context otherwise requires—
“**consumer**” means a person who is approved under regulation 3 as a consumer of water from the water supply system;
“**consumption**” means the supply obtained;
“**prescribed**”¹⁷ in relation to any charge, means prescribed by the Governor in Council under section 4 of the Ordinance;
“**supply**” means a supply of water provided by the Water Authority from the water supply system.

Approval of consumer

¹⁵ Citation amended by L.N. 14 of 2011

¹⁶ Regulation 1 amended by L.N. 14 of 2011

¹⁷ Definition of “prescribed” inserted by L.N. 14 of 2011

3. (1) The Water Authority may approve, as the consumer of a supply of water from the water supply system, any person who—

- (a) occupies the premises; or
- (b) is responsible for the management of the premises or any part thereof; and
- (c) gives an undertaking, in such form as the Water Authority may specify to pay any charge due in respect of the supply.

(2) A consumer may at any time apply to the Water Authority for cancellation of an undertaking given by him under this regulation and the Water Authority shall, if all charges due from the consumer have been paid, cancel the undertaking whereupon he shall cease to be the consumer.

Refusal of a connection or reconnection

4. The Water Authority may refuse to connect or reconnect a private service to the water supply system if—

- (a) the private service or any alteration thereto is not approved by the Water Authority; or
- (b) there is no consumer for the private service.

Disconnection of private service

5.¹⁸ The Water Authority may disconnect a private service if—

- (a) any prescribed charge in respect of the private service is not paid;
- (b) there is no consumer for the private service;
- (c) the private service is constructed, installed or altered without its permission;
- (d) the consumer, on receipt of a notice under regulation 8, fails to carry out the repairs or other works specified in the notice;
- (e) the Water Authority, or any person acting under its authority, is obstructed from entering the premises or carrying out any function under section 6 of the Water Ordinance; or
- (f) the Water Authority 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 under regulation 5 shall be served on the consumer by the Water Authority and the notice shall specify the reasons for the disconnection.

(2) Notice under subsection (1) shall, where there is no consumer, be served on the occupier of the premises or left at the premises.

Power of entry into premises

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

Water Authority may require repairs to be carried out

¹⁸ Regulation 5 amended by L.N. 14 of 2011

8. The Water Authority 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 its permission,
by notice require the consumer to carry out the repairs or other works specified in the notice to the private service.

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, shall be payable by the consumer.

(2) The liability of a consumer under an undertaking given under regulation 3 shall continue until—

- (a) another consumer is approved by the Water Authority in his place; or
- (b) the undertaking is cancelled by the Water Authority, notwithstanding that—
 - (i) he ceases to occupy the premises;
 - (ii) he ceases to be responsible for the management of the premises or any part thereof; or
 - (iii) the Water Authority exercises any power under regulation 4 or 5.

Charge for water

10.¹⁹ ...

Connection of private service

11.²⁰ If a private service is approved by the Water Authority it shall, on payment of the prescribed charge, connect the private service to the water supply system.

Disconnection or reconnection of supply at consumer's request

12.²¹ **(1)** A consumer who wants a private service to be disconnected shall apply to the Water Authority, in such form as may be specified and on payment of the prescribed charge, giving not less than 7 days' notice of the date on which the disconnection is to be made.

(2) A consumer who wants a private service which has been disconnected under paragraph (1), to be reconnected shall apply to the Water Authority in such form as may be specified 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 by any other means which the Water Authority thinks fit.

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

¹⁹ Regulation 10 revoked by L.N. 14 of 2011

²⁰ Regulation 11 amended by L.N. 14 of 2011

²¹ Regulation 12 amended by L.N. 12 of 2008 and L.N. 14 of 2011

- (a) on compliance by the consumer with any requirement of the Water Authority relating to the reason for the disconnection; and
- (b)²² on payment of the prescribed reconnection and maintenance charge for reconnecting a private service.

Water Authority may specify notices and forms

14. (1) A notice under these regulations shall be in writing and shall be in such form as may be specified by the Water Authority.

(2) The Water Authority may specify any forms required for the purposes of these regulations.

SCHEDULE²³

...

²² Section 13(2)(b) substituted by L.N. 12 of 2008 and amended by L.N. 14 of 2011

²³ Schedule revoked by L.N. 14 of 2011

WATER (TARIFFS) REGULATIONS – SECTIONS 3 AND 4*(Legal Notice 7 of 2012)***Citation and commencement**

1. These Regulations may be cited as the Water (Tariffs) Regulations, 2012, and shall come into force on 1 April 2012.

Interpretation

2. For purposes of these Regulations, any word or phrase to which a meaning has been assigned in the Water Regulations bears the meaning so assigned, and—

“quarter” means a period of three months;

“unoccupied residential premises” means any residential premises, where—

- (a) the consumption of water during any quarter was less than five cubic metres; or
- (b) the premises are deemed to be unoccupied under the Electricity (Tariffs) Regulations, 2012,

and the consumer in relation to such premises cannot prove to the Water Authority that such premises were *bona fide* occupied as a residence for a period, or periods in aggregate, of at least 60 days during a quarter:

Provided that where a consumer who ordinarily resides at such premises is temporarily absent from such premises due to illness or overseas holidays, such premises shall be deemed to remain *bona fide* occupied as a residence during such period of absence.

Services charges for water supply

3. (1) The service charge for connection to the water distribution system (whether for treated or untreated water) shall be—

Water supplied	Rate per quarter
(a) For domestic purposes (other than where paragraph (b) applies)	£6.00
(b) For unoccupied residential premises	£17.50
(c) For commercial purposes	£18.00
(d) For agricultural purposes	£6.00

(2) The service charge referred to in sub-regulation (1) shall be charged pro rata for any part of a quarter.

Rates for consumption of water

4. (1) The rates for consumption of water shall be—

Water supplied	Rate per m ³
For domestic purposes:	
(a) Treated water:	
(i) First 15m ³ during a quarter	£0.79
(ii) Additional m ³	£1.04
(b) Untreated water	£0.52
For commercial purposes	£2.04
For agricultural purposes:	
Treated water	£1.04

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	Untreated water	£0.52
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(2) No charges shall be due for water supplied for religious or social purposes, to a public building (other than a building referred to in paragraph (3)) where no charge is made for admission.

(3) The charges for water supplied to a community centre, or to land or premises for which no other charge is prescribed, are the same as those for occupied residential premises.

Connection, disconnection and reconnection charges

5. The following charges apply in respect of the connection, disconnection and reconnection of water supply under Regulation 11 or 12 of the Water Regulations:

Service		Charge
Connection charge		£8.00
Disconnection charge		£12.00
Reconnection and maintenance charge:		
	After being disconnected for a period of up to one month	£8.00
	After being disconnected for a period of more than one month up to six months	£33.00
	After being disconnected for a period of more than six months up to 12 months	£55.00
	After being disconnected for a period of more than 12 months	£55 for every year that the water supply has been disconnected: Provided that the amount for any part of a year shall be calculated on a pro rata basis.

Charges for waste water drainage service

6. The following charges apply in respect of waste water drainage services:

Service	Charge
Service charge for property connected to the public sewerage system:	
(a) Domestic purposes	£9.50 per quarter
(b) If the volume of water charged for under regulation 4 was less than 15 cubic metres during the quarter	£5.00 per quarter
(c) Commercial purposes	£15.00 per quarter
Emptying of septic tank	£48.50
Unblocking private sewerage line (whether connected to septic tank or making connection to public system)	£30.25

Repeal of legislation

7. The Water (Tariff) Regulations, 2011, are repealed.