SPECIAL ISSUE

Murang'a County Gazette Supplement No. 14 (Bills No. 12)

13 OCT 2014

REPUBLIC OF KENYA

MURANG’A COUNTY GAZETTE SUPPLEMENT

BILLS, 2014

NAIROBI, 19th September, 2014

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PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI
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THE MURANG'A COUNTY WATER BILL, 2014

A Bill for

AN ACT of the Murang’a County Assembly to
provide for the management, conservation, use
and control of water resources and for the
acquisition and regulation of rights to use water;
to provide for the regulation and management of
water supply and sewerage services and for
related purposes

ENACTED by the Murang’a County Assembly as
follows—

PART I – PRELIMINARY

Short title and commencement

1. This Bill may be cited as the Murang’a County
Water Bill, 2014 and shall come into operation on such
date as the Executive Member may, by notice in the
Gazette, appoint.

Interpretation

2. (1) In this Act, unless the context otherwise
requires—

“authorized” means authorized by or under this Act;

“Authority” means the Water Resources Management
Authority established by the National Government;

“Board” means the Murang’a Water Services Board
established by this Act;

“catchment area” means an area designated under
section 14;

“charges”, in relation to the use of water from a water
resource, includes fees, levies and premiums of any kind;

“County” shall mean Murang’a County;

“domestic use” means the use of water for a home or
household affairs;

“easement” means the right to occupy so much of the
lands of another as may be necessary for or incidental to
the construction or maintenance of works authorized, or the
exercise of rights conferred, by a permit;
“Executive Member” means the Murang’a County Executive Committee Member for the time being responsible for Water;

“export” means the provision of water services outside Murang’a county;

“governor” means the governor of Murang’a County;

“ground water” means the water of underground streams, channels, artesian basins, reservoirs, lakes and other bodies of water in the ground, and includes water in interstices below the water table;

“inspector” means a person appointed by the Executive Member, the Authority or the Board to exercise the powers of an inspector under this Act;

“in-stream habitat” includes the physical structure of a water resource and the associated vegetation in relation to the bed of the water course;

“irrigation” includes the supply of land with water by means of ditches, pipes, or streams in order to make the land fertile or vital;

“landholder”, in relation to land, means the registered owner of the land or the person in whom the land is otherwise vested by law, and includes—

(a) any person who by any established right, custom or estate whatsoever is, or is entitled to be, the holder or possessor of land;

(b) any person lawfully holding or occupying land in accordance with the provisions of any law empowering the allotment of land upon the promise of title, subject to the fulfilment by the allotted of prescribed conditions; and

(c) any person to whom a mining lease or mining location has been granted under the Mining Act.

Cap. 306

“licence” means a licence in force under this Act;

“limits of supply”, in relation to a water undertaking, means the limits within which the licensee is for the time being authorized to supply water;
“permit” means a permit for the time being in force under this Act;

“pollution”, in relation to a water resource, means any direct or indirect alteration of the physical, thermal, chemical or biological properties of the water resource so as to make it—

(a) less fit for any beneficial purpose for which it is or may reasonably be expected to be used; or

(b) harmful or potentially harmful to—

(i) the welfare, health or safety of human beings;

(ii) any aquatic or non-aquatic life or property; or

(iii) the environment;

“public consultation”, in relation to any application made, or action proposed to be taken, under this Act, has the meaning assigned to it in the Constitution and the County Government Act (Act no. 12 of 2012)

“reserve”, in relation to a water resource, means that quantity and quality of water required—

(a) to satisfy basic human needs for all people who are or may be supplied from the water resource; and

(b) to protect aquatic ecosystems in order to secure ecologically sustainable development and use of the water resource;

“resource quality”, in relation to a water resource, means the quality of all the aspects of a water resource including—

(a) the water quality stipulated for the reserve;

(b) the quantity, pattern, timing, water level and assurance of instream flow;

(c) the physical, chemical and biological characteristics of the water;

(d) the character and condition of the in-stream and riparian habitat; and

(e) the characteristics, condition and distribution of the aquatic biota;
“resource quality objectives”, in relation to a water resource, means the level to be achieved and maintained in each aspect of resource quality for the water resource;

“riparian habitat” means the dynamic complex of plant, animal and micro-organism communities and their non-living environment adjacent to and associated with a watercourse;

“spring” means water emerging from beneath the surface of the ground otherwise than as a result of drilling or excavation operations;

“stream” means the water contained in a watercourse, and includes a river;

“supply of water in bulk” means a supply of water to a licensee for distribution by or on behalf of the licensee taking the supply;

“swamp” means any shallow depression on which water collects either intermittently or permanently and where there is a small depth of surface water or a shallow depth of ground water and a slight range of fluctuation either in the surface level of the water or of the ground water level so as to permit the growth of aquatic vegetation;

“use”, in relation to water contained in or forming part of a water resource, means—

(a) abstraction, obstruction or diversion of the water;

(b) discharge of materials or substances into the into the water; or

(c) any activity, of a kind prescribed by rules under this Act, in relation to the water;

“water resource” means any lake, pond, swamp, marsh, stream, watercourse, estuary, aquifer, artesian basin or other body of flowing or standing water, whether above or below ground;

“water service” means any service of or incidental to the supply of water or the provision of sewerage;

“water service provider” means a company, non-governmental organization or other person or body providing water services under and in accordance with an
agreement with the licensee within whose limits of supply the services are provided;

“water services board” means a water services board constituted under Part III;

“water table” means—

(a) in pervious granular or detrital material, the upper surface of the body of free water which fills all openings in material that is sufficiently pervious to permit percolation; and

(b) in fractured impervious rocks and in solution openings, the surface at the contact between the water body in the openings and the overlying ground air;

“watercourse” means any natural channel or depression in which water flows regularly or intermittently, unless declared not to be a watercourse under this Act;

“works” means any structure, apparatus, contrivance, device or thing for carrying, conducting, providing or utilizing water or liquid waste, but does not include hand utensils or such other contrivances as may be prescribed by rules made under this Act.

(2) For the purposes of this Act, a drought shall be deemed to exist in any area when the Executive Member, upon such information as seems to him sufficient, by order published in the Gazette declares that a drought exists in that area.

PART II – OWNERSHIP AND CONTROL OF WATER

Acquisition of water rights

3. After the commencement of this Act, no conveyance, lease or other instrument shall be effectual to convey, assure, demise, transfer or vest any person, any property or right or any interest or privilege in respect of any water resource, and no such property, right, interest or privilege shall be acquired otherwise than under this Act.
PART III – WATER RESOURCES MANAGEMENT

Establishment of the Murang’a Water Services Board

4. (1) There is hereby established a board to be known as the Murang’a Water Services Board which shall be established within ninety days after commencement of this Act.

(2) The Board shall be a body corporate with perpetual succession and a common seal and shall have power, in and by its corporate name, to sue and be sued and, in the exercise and performance of its powers and functions, to do and permit all such things as may lawfully be done or permitted by a body corporate in furtherance of its objects.

(3) The Board shall consist of—

(a) a chairman, who shall be appointed by the Governor with the approval of the County Assembly;

(b) the Executive Member responsible for water or a representative not below the rank of chief officer nominated by the Executive Member in writing;

(c) the Executive Member responsible for agriculture or a representative not below the rank of chief officer nominated by the Executive Member in writing;

(d) the Executive Member responsible for trade or a representative not below the rank of chief officer nominated by the Executive Member in writing;

(e) the officer responsible for coordination of national government functions in department of water in the County or a representative nominated by Cabinet Secretary in-charge of water in writing;

(f) the officer responsible for coordination of national government functions in department of health in the County or a representative nominated by Cabinet Secretary in-charge of Trade in writing;

(g) the officer responsible for coordination of national government functions in department of standards in the County or a representative nominated by Cabinet Secretary in-charge of Trade in writing;
(h) the Chief Executive Officer who shall be the Secretary to the Board and an *ex officio* member of the Board;

(i) four members, appointed by the Executive Member, and approved by the County Assembly from amongst persons who possess knowledge and experience in matters relating to the management of water resources one of whom shall be a youth and one a person with disabilities taking into consideration that at least one-third shall be of the opposite gender.

**Powers and functions of the Board**

5. (1) The Board shall have the following powers and functions—

(a) formulate and publish the county water services strategy and the county water and Sanitation policy;

(b) coordinate all water institutions in the county;

(c) undertake county water sectoral planning;

(d) formulate cross-sectoral co-ordination plans with departments in the County and in the National government to avoid and resolve conflicting mandates;

(e) prepare an annual water sector report on water services provision and sanitation;

(f) in consultation with the relevant water institutions in the National Government put in place measures to prevent unlawful abstraction of water resources and watercourses in the County;

(g) Ensure effective exercise and performance by any authorities or persons of powers and duties granted or imposed under this Act;

(h) establish a county water data base and information system which shall be provided by the water institutions and any other relevant institution;

(i) formulate a comprehensive inter-sectoral program on sewerage and sludge treatment for decentralized sanitation facilities;
(j) to issue licences for the provision of water services;
(k) to determine standards for the provision of water services to consumers;
(l) to establish procedures for handling complaints made by consumers against licensees;
(m) to monitor compliance with established standards for the design, construction, operation and maintenance of facilities for water services;
(n) to monitor and regulate licensees and to enforce licence conditions;
(o) to advise licensees on procedures for dealing with complaints from consumers and to monitor the operation of these procedures;
(p) to develop guidelines for the fixing of tariffs for the provision of water services;
(q) to develop guidelines for and provide advice on the cost-effective and efficient management and operation of water services;
(r) to disseminate information about water services;
(s) to promote water conservation and demand management measures;
(t) to monitor, and from time to time re-assess, the county water services strategy;
(u) in accordance with the county water services strategy, to determine fees, levies, premiums and other charges to be imposed for water services;
(v) to ensure effective utilization of water resources including the use of water to generate hydro-power, creation of viable tourism sites, irrigation schemes, and such other uses as are beneficial to the public.
(w) to advise the county government concerning any matter in connection with water services.

(2) The County water policy referred to under subsection (1) shall include details of the county government's strategies and plans for the mobilization, enhancement and deployment of financial, administrative
and technical resources for the management and provision of water supply and sanitation services.

(3) The Board shall have such other powers and functions as may be conferred on the Board by or under this or any other Act, or as may be reasonably incidental to the exercise or performance of any power or function so conferred.

(4) Except as to the contents of any report or recommendation made by it, the Board in the exercise and performance of its powers and functions, be subject to such directions as may be made from time to time by the Governor or Executive Member.

(5) A summary of any directions given under subsection (3) during a financial year shall be published in the Board’s annual report.

Staff of the Board

6. (1) There shall be a Chief Executive Officer of the Board, who shall be appointed by the county public service with the approval of the County Assembly through a competitive recruitment process and which shall be an office in the County public service.

(2) The Chief Executive Officer shall be the principal officer of the Board and, subject to the directions of the Board, shall be responsible for management of the Board.

(3) The Board may appoint, upon such terms and conditions as it may determine, such officers and other staff as may be necessary for the exercise and performance of its powers and functions.

PART IV - WATER SERVICES STRATEGY

County water services strategy

7. (1) Following public consultation, the Board shall formulate, and publish in the Gazette, a county water services strategy within six months of its establishment.

(2) It shall be the duty of the Board to review the county water services strategy from time to time.

(3) The county water services strategy shall have the following objects—
(a) to institute arrangements to ensure that at all times there is in every area of the county a person capable of providing water supply; and

(b) to design a programme to bring about the progressive extension of sewerage to every centre of population in Murang’a County.

(4) The county water services strategy shall contain details of—

(a) existing water services;

(b) the number and location of persons who are not being provided with a basic water supply and basic sewerage;

(c) plans for the extension of water services to underserved and un-served areas;

(d) the time frame for the plan; and

(e) an investment programme.

(5) The county water services strategy, as in force for the time being, shall be published in the Gazette.

County monitoring of and information on water services

8. (1) The county water services strategy shall provide for monitoring and information on water systems and water services.

(2) The systems shall provide for—

(a) the collection and management of data and information regarding water services; and

(b) procedures for gathering data and the analysis and dissemination of information on water services.

(3) For the purposes of any systems established under this section, the Board may by order require any person, within a reasonable time or on a regular basis, to provide it with information, documents, samples or materials.

(4) Rules made under this Act may specify requirements for the keeping of records and the furnishing of information to the Board.

(5) Within 3 months after the end of each financial year, the Board shall prepare an annual report of its work
and activities and such report shall be tabled in the County Assembly.

**PART V—ESTABLISHMENT, POWERS AND FUNCTIONS OF THE INSPECTORATE UNIT**

**Powers and Functions of the Inspectorate Unit**

9. The Inspectorate Unit shall have the powers necessary for enforcement of its functions under this Act, and in particular the Inspectorate Unit shall have power to—

(a) ensure compliance with all County water laws and Regulations;

(b) implement and enforce all the County water laws and Regulations;

(c) undertake inspection of water resources; and

(d) institute criminal proceedings for offences under this Act or in connection with the performance of its functions and in accordance with the Criminal Procedure.

(e) any other duty as may be assigned by the Board.

**Appointment of water Inspectors**

10. The Chief Executive Officer, in consultation with the county public service board, may appoint water inspectors for purposes of enforcing and ensuring compliance of the provisions of this Act and all relevant laws.

**Power of Entry**

11. (1) An Inspector or other authorized person appointed by the Chief Executive Officer may enter without a warrant on to any land and inspect any water resource located within or accessible from the land concerned, in order to take any measures authorized under this Act for the purpose of—

(a) conserving or regulating the water resource, or preventing it from pollution or protecting the bed over which it lies or flows; or

(b) removing any obstruction from, or clearing and deepening, the bed; or
(c) preventing the excessive or illegal diversion, waste or pollution of the water resource or interference with any bed.

(2) An Inspector or authorized person shall not enter to the land or premises without first giving reasonable notice, whether written or verbal, to the landholder or his employee or agent in charge of the land or premises, and such entry shall be at reasonable hours.

Provided that an Inspector may enter without giving notice if—

(a) he has reason to believe that a provision of this Act or of any rule or order made under this Act has been or is about to be contravened;

(b) he is unable to give notice within a reasonable time having regard to all the circumstances; or

(c) he has given reasonable grounds for not giving notice.

(3) If so requested by the owner or occupier of the land or premises, the Inspector or other authorized person shall produce evidence of his right or permission, as the case may be, to enter on to the land.

(4) It shall be the duty of any person exercising any powers under this section to do so with reasonable care and in such a manner as to cause as little damage as possible in so doing.

PART VI—WATER AND SANITATION SERVICES

Water Service Providers

12. (1) Water services in the County shall be provided—

(a) by the county government through a county scheme as defined in section 42; and

(b) by water services providers licensed in accordance with this Part; and

(c) on the basis of an agreement between the water services providers and the Board.

(2) A water service provider licensed under this section shall be a company established under the Companies Act, a non-governmental organization or other
person or body providing water services as shall be approved by the Board.

(3) Every county water services provider shall comply with standards of commercial viability set by the relevant national regulatory agency.

(4) Every company wishing to be licensed as a water service provider shall submit its Memorandum and Articles of Associations that conform to the model developed and approved by the relevant national regulatory agency.

**Provision of water services**

13. (1) No person shall provide water services except under the authority of a license issued by the Board.

(2) A person who provides water services in contravention of this section shall be guilty of an offence.

(3) Nothing in this section prohibits the provision of water services—

(a) by a person to his employees;

(b) on the premises of an institution including a hospital, factory, school, hotel, research station or other institution of a like nature to the occupants thereof in cases where the source of supply of the water is lawfully under the control of the institution or where the water is supplied to it in bulk by a licensee;

(c) local community arrangement to members of that community; and

(d) in circumstances which are prescribed by rules made by the Board to be exempt from the requirement for a license.

**Duties of a water services provider**

14. A water Services provider shall be responsible for the following—

(a) provision of water services within the area specified in the licence;

(b) to ensure water services and related works are provided, maintained and upgraded in the area specified;
(c) collection, treatment and management of storm and waste water;
(d) collection, treatment and management of sludge regardless of its origin
(e) Infrastructural development
(f) conservation of the environment including the protection of water catchment areas through targeted tree planting and such other activities as the Board may by rules provide.

Water service provision agreements

15. (1) A water service provider shall enter into a written agreement with the Board for purposes of exercise and performance of all its powers and functions under the licence.

(2) The agreement shall specify the powers and functions under the licence which shall be performed by the water service provider.

(3) The agreement may also make provisions with respect.

(a) the indemnify by the water service provider of any liability to the county government arising from performance or non-performance of functions conferred by the licence; and

(b) the maintenance, rehabilitation and development, by the water service provider of water and sewerage infrastructure and facilities in the County.

Procedure and requirements for obtaining license

16. (1) An application for a license shall be made to the Board in the prescribed form.

(2) The applicant shall furnish the following particulars—

(a) evidence that the applicant's board of directors complies with the standards set by the national government regulatory agency;
(b) the technical and financial capability of the applicant to provide the services and perform functions authorized by the license;

(c) evidence that the water services to be provided will be commercially viable;

(d) the applicant's business plans for the provision of efficient, affordable and sustainable water services;

(e) performance targets;

(f) details of planned financial and infrastructural improvements;

(g) a proposed tariff structure; and

(h) any other information required by the relevant national water regulatory agency and/or the Board.

(3) The application shall be made by completing and lodging the prescribed form together with the supporting documentation and the prescribed fee.

(4) The Board shall determine an application for a license by granting the licence or rejecting the application.

(5) The application shall not be granted unless the Board is satisfied that—

(a) the applicant has the requisite technical and financial competence to provide the services to which the license relates;

(b) the applicant has demonstrated that the water services to be provided will be commercially viable;

(c) the applicant has presented a sound plan for the provision of an efficient, affordable and sustainable water service;

(d) the applicant has proposed satisfactory performance targets and planned improvements and an acceptable tariff structure;

(e) the applicant or any water services provider by whom the functions authorized by the licence are to be performed will provide the water services
authorized by the licence on a commercial basis and in accordance with sound business principles.

(f) where water services authorized by licence are to be provided by a water service provider which conducts some other business or performs other functions not authorized by the licence, the supply of those services will be undertaken, managed and accounted for as a separate business enterprise;

(g) the applicant has met any other requirements which the Board considers are called for by the services to be provided under the license.

Determination of application

17. (1) Any person opposed to the grant of a license may object in writing to the Board.

(2) The Board shall notify the applicant and any objector of its decision and in the event of the rejection of an application or objection, as the case may be, of the reasons therefore, and an applicant or objector may, if aggrieved by the decision within thirty days after the date of the notification, appeal to the court.

(3) It shall be the duty of the Board to determine an application for a licence as soon as practicable after filing of the application but in any case not later than forty-five days.

Licences

18. (1) A licence shall authorize and to the extent provided therein, require the provision by the licensee of water services specified in the licence.

(2) There is no property in a licence, and except provided by this Act, a licence shall not be capable of being sold, leased, mortgaged, transferred, attached or otherwise assigned, demised or encumbered.

(3) As a condition precedent to the issue of a licence, Board may require the applicant to deposit with the county government a guarantee or other acceptable security for the purpose of securing payment by the applicant of any expenses recoverable from him, as a licensee, for or towards the costs incurred in discharging the functions of the licensee in cases of default.
(4) As a condition of its licence the licensee shall, within twelve months of receipt of the licence, or such longer period as the Board may determine, formulate and present to the Board, a development plan for extending services to un-served persons within its area, a time frame for the implementation of the plan and a resource mobilization strategy.

**Licence Fees**

19. (1) A licensee shall pay to the county government, on issue of the licence and at prescribed intervals thereafter, such licence fees as the Board may determine.

(2) The fee shall be determined by reference to a schedule of fees published in the Gazette from time to time by the Board.

**Conditions of a Licence**

20. (1) A license shall be subject to—

(a) such conditions as may be prescribed by or under this Act in relation to the license; and such other conditions, not inconsistent with the conditions prescribed, as the national water regulatory agency may impose by endorsement on or instrument in writing annexed to, the licence;

(2) Rules made under this Act may make provision for imposing conditions on or with respect to the conditions which are or shall be imposed on licenses generally or any class or description of licenses.

(3) Without prejudice to the generality of subsection (2), such rules may—

(a) require the imposition of prescribed conditions in prescribed circumstances;

(b) require the licensee to maintain, in the prescribed manner, a contingency fund for the purpose of renewal, repair, enlargement or improvement of any plant, equipment, facilities or works used for the purposes of the licence or for meeting any other prescribed contingency.

(c) provide that a contravention of any, or of any specified conditions prescribed by or under this
Act as conditions of licenses shall constitute an offence punishable by a penalty specified in law.

(d) The imposition of a penalty by a regulation made in accordance with subsection (3) (c) shall not prejudice any remedy for the recovery of damages for any loss, damage or injury sustained by any person by reason of the contravention in respect of which the penalty is imposed.

Duty to provide water services

21. (1) A water services provider shall, as licensee, be responsible for the efficient and economical provision of water services fulfilling the rights to water authorized by the license and to the extent required by the license.

   (2) For the purpose of the provision of water services, a water services provider, may—

      (a) purchase, lease or otherwise acquire, premises, plant, equipment and facilities;

      (b) purchase, lease or otherwise acquire land, or request for its compulsory acquisition in accordance with the applicable laws;

   (3) As part of its duty a water services provider shall establish a mechanism for handling consumer complaints which meets the standard set by the relevant national water regulatory agency;

Public Private Partnerships

22. (1) A water services provider may enter into a public private partnership for the exercise and performance by another person of some or all of its functions as a licensee with respect to a part or the whole of its area of water service.

   (2) Such a partnership shall be reduced to an agreement in writing the terms of which and any amendment of which shall be of no force and effect unless and until approved by the Board.

   (3) Where the person entering into the agreement with the water services provider owns or possesses assets or infrastructure used for the provision of water services, the agreement shall set out the terms and conditions under which the assets may continue to be so used.
(4) A power or function conferred by a license or otherwise conferred by or under this Act, may be exercised or performed by another person acting under an agreement with the licensee and shall be deemed, when exercised or performed by that other person, to have been exercised or performed under the license.

Special provisions with respect to unviable rural areas

23. (1) It shall be the responsibility of the county government through the Board to put in place measures for the provision of water services to rural areas which are unviable for the provision of water services on a commercial basis.

(2) The measures taken by the Board shall include developing point sources, small scale piped systems and stand pipes which meet the standard set by the national water regulatory agency and which may be managed by the community associations, non-governmental organizations or by a private person under a contract with the Board.

(3) In order to implement its obligation under this section the Board shall formulate an up to date five-year development plan incorporating an investment and financing plan for the provision of water services in unviable rural areas within its area of jurisdiction.

Areas of water service

24. (1) The area of a water service shall be prescribed by the licence and shall not be less than the area required for a commercially viable water service.

(2) The area so prescribed may, but need not, coincide with the boundaries of the area or areas of jurisdiction of one or more county governments.

Clustering of areas of water service provision

25. (1) The Board may, in consultation with any other county government—

(a) permit the joint provision by two or more licensees of water services on such terms as it may approve; or

(b) permit the transfer of a water service, or part thereof, of one licensee to another licensee.
(2) Where it appears to the county government to be necessary for the purpose of securing a commercially viable water service, county government may, by notice in the Gazette, order such a joint provision of water services or such a transfer of water service and vary the relevant licenses accordingly.

(3) An order made under this section may make such incidental, consequential and supplementary provision as the Board deems necessary or expedient for the purpose of carrying out the order.

(4) A licensee aggrieved by the provisions of the order may appeal to the court.

Variation of areas of service

26. (1) The Board may vary the areas of water service prescribed by one or more licenses—

(a) on the application of a licensee whose area of water service is to be varied and with the consent of any other licensees affected; or

(b) without the consent, or against the objections, of any, such other licensee, if the Board is satisfied that the other licensee is unable to meet the demands for water in its area or is otherwise unable to provide a commercially viable service.

(2) Where it appears to the Board that it is necessary to vary the area of water service of a licensee and the Board is satisfied that such a variation cannot otherwise be secured it may, by order published in the Gazette, effect the variation and may vary the relevant licence accordingly.

(3) An order made under this section may make such incidental, consequential and supplementary provision as the Board deems necessary or expedient for the purpose of carrying out the order.

(4) A licensee aggrieved by the provisions of an order made under this section may appeal to the court.

Provision of water service outside the area of supply

27. (1) With the consent of the Board, and subject to any rules made under this Act and to such conditions as the Board may impose, a licensee may provide water services outside its area of water service.
(2) Where under this section a licensee (in this section called "the supplying licensee") is providing water services to premises outside its area, any other licensee within whose area those premises are situated may, in the absence of any agreement to the contrary, at any time give not less than three months' notice to the supplying licensee that he is able and intends to provide water services to the premises:

Provided that a notice given under this section shall not be valid unless it relates to all the premises to which water services are being provided by the supplying licensee in accordance with this section.

(3) If, at the end of a period of three months notified under subsection (2), the licensee giving the notice commences to supply water to the premises covered by the notice, the supplying licensee shall, except for the purpose of recovering water rates or other charges or expenses lawfully recoverable by him, and of removing any pipes, plant or apparatus belonging to him, cease to have any rights or duties in respect of providing water services to the premises concerned:

Provided that the supplying licensee shall not remove any pipes, plant or apparatus which he is required by the licensee giving the notice to leave in position, and any such pipes, plant or apparatus shall vest in the licensee giving the notice.

(4) The licensee giving notice shall pay to the Supplying licensee—

(a) such portion of any expenses reasonably incurred by it for the purpose of providing water services to the premises referred to in the notice;

(b) such sum in respect of airy pipes, plant or apparatus vested in the licensee giving the notice as may be agreed or, in default of agreement, as may be determined by Board.

(5) While the supplying licensee is in accordance with this section authorized to provide water services outside its area of service, any regulations relating to its water service shall have effect as if the area to which those services were provided were within those limits.
Default by Licensee

28. (1) If, following a complaint made to or information received by the Board it appears to the Board that any licensee—

(a) has failed to discharge any duty imposed upon him by a licence or otherwise under this Act; or

(b) has failed to give an adequate supply of water, as respects either quantity or quality to any area or any person which it is supplying, or has failed to give any supply which he is lawfully required to give; or

(c) having been notified by the Board to take such steps as are reasonably practicable in order to remedy any such failure as is mentioned in paragraph (a) or (b), has failed to do so, the Board may inquire into the matter.

(2) If, after inquiry, the Board is satisfied that there has been any such failure on the part of the licensee in question, it may impose a special regulatory regime on the water services provider for the purpose of remedying the default.

(3) A licensee declared to be in default who is dissatisfied with an order of the Board under this section may, within thirty days after such order appeal to the court.

(4) A licensee declared to be in default by order under this section who fails to comply with any requirement of the order within the time specified for compliance with the requirement shall be guilty of an offence.

Transfer of functions by licensee

29. (1) If the Board is satisfied that, notwithstanding the imposition of measures under a special regulatory regime, the default has not been remedied and is not likely to be remedied by the licensee, it shall, by notice in the Gazette, order the transfer to another licensee of the water services in question.

(2) The order of transfer shall make such provision as appears to the Board to be desirable or necessary with respect to any property or assets being used by the by the
defaulting licensee for the purposes of providing the water services.

Agreements to protect sources of water

30. (1) A licensee may enter into an agreement with any person with respect to the execution and maintenance by any party to the agreement, of such works as the licensee considers necessary or as the conditions of his licence may require for the purpose of protecting the catchment areas, drainage of land, carrying out soil conservation measures or the control of vegetation or more effectively collecting, conveying or preserving the purity and quantity of water which the licensee is for the time being authorized to take.

(2) An agreement under this section may be registered against any land of the person with whom it is made, and shall be binding upon and enforceable against such land or such person or his successor in title.

Power of licensee to prohibit or restrict use of water

31. (1) A licensee who is of the opinion that there is a serious deficiency of water available for distribution or that such a deficiency is threatened may, with the approval of the Board, for such period as he thinks necessary prohibit or restrict as respects the whole or any part of its limits of supply the use for any specified purpose of water supplied by him.

(2) Before any such prohibition or restriction comes into force, public notice shall be given by the licensee, in one or more newspapers circulating within the affected area or by such other means as the Board may approve, of the proposed prohibition or restriction and of the date when it will come into force.

(3) Rules made under this Act may provide that any person who, while such prohibition or restriction is in force, contravenes its provisions shall be guilty of an offence and liable on conviction to a penalty fixed by Regulation.

Execution works for protection of water

32. (1) A licensee may, on any land belonging to it, or over or in which it has acquired any necessary easement or right, construct and maintain drains, sewers and other
works for intercepting, treating or disposing of any foul water arising or flowing upon such land or otherwise for preventing water belonging to the licensee, or which it is for the time being authorized to take, from being polluted;

Provided that before constructing any works the licensee, if the proposed works will affect or be likely to affect any water resource, it shall obtain the consent of the Board.

(2) Any licensee proposing to construct any such drain, sewer or other works may, with the consent of the county or national organ concerned and subject to such conditions as;

May be imposed, carry the drain, sewer or other work under, across or along any road or road reserve or public place, whether within or outside the area of water service of the licensee.

(3) A consent required under subsection (2) shall not be unreasonably withheld, nor shall any unreasonable condition be attached to such consent, and any question arising from the operation of this subsection shall be decided by consultation between the organs concerned.

Control of Trade Effluent

33. (1) It shall be the duty of a licensee receiving trade effluent into its sewerage system to ensure that it has in place measures for the receipt and handling of the effluent without causing pollution of the environment, harm to human health, damage to the sewerage system, a contravention of applicable laws or contravention of standards set by the Board.

(2) No person shall discharge any trade effluent from any trade premises into the sewers of a licensee without the consent of the licensee.

(3) An application for consent shall be made to the licensee and shall state—

(a) the nature or composition of the trade effluent;
(b) the maximum quantity of the effluent which it is proposed to discharge on any one day;
(c) the highest rate at which it is proposed to discharge the effluent; and
(d) any other information required by the licensee.

(4) The licensee's consent may be given subject to conditions, including conditions requiring pre-treatment and payments to the licensee of charges for the discharge.

(5) Any person who is dissatisfied with the decision of the licensee on an application under this section may, within thirty days of the decision, appeal to the Board.

(6) A person who contravenes the provisions of this section shall be guilty of an offence.

(7) In this section, "trade effluent" means any liquid, whether with or without suspended particles, produced as a by-product in the course of any trade or industry.

Sewerage services levy

34. (1) The Board may impose a sewerage services levy on all water services within the area of water service of a licensee, to cover a reasonable part of the cost of disposing of the water supplied within those limits.

(2) A portion of the levy may, with the approval of the Board, be set aside by the licensee for use in the expansion of the sewerage system within the area of service of the licensee.

Supply of water in bulk

35. (1) A water service provider may enter into an agreement with any other person, whether a water service provider or not, for the giving by that person, and the taking by the water service provider, of a supply of water in bulk for any period and on any terms and conditions and, where the supply is to be given by a person who is himself a licensee, either within or outside the limits of supply of that water service provider;

Provided that no such agreement shall be of any force or effect unless its terms have been approved by the Board, and where such a supply is to be given by a water service provider, it shall withhold approval if it appears that the giving of that supply would be likely to interfere with the supply of water for any purpose within the limits of supply of that water service provider.

(2) Where it appears to the Board that—
(a) it is expedient that any water service provider should give a supply of water in bulk to another water service provider; and

(i) the other water service provider should take such a supply; and

(b) the giving and taking of such a supply cannot be secured by agreement, the Board may, by order served on them, require the water service providers concerned to give and take such supply for such period and on such terms as it may specify.

Supervision, monitoring and coordination of water supply

36. (1) The Board shall in consultation with the relevant national water institutions be responsible for supervision, monitoring and coordination of provision of water by water service providers.

(2) The Board may—

(a) monitor, regulate water service providers and enforce licence conditions;

(b) formulate, promote and monitor implementation of policies for sustainable growth of the water sector, in consultation with the private sector and in line with water institutions in the National Government;

(c) establish a mechanism for handling complaints from consumers regarding the quality or nature or water services; and

(d) maintain a County data base or information system on water services.

Public works by the county government

37. The county government shall in addition to works by the water service providers carry out public works in the County for the following purpose—

(a) the supply, distribution or apportionment of water for use in and out of the county the County;

(b) protection of any water resource, its source or catchment in collaboration with the relevant bodies for that particular purpose;
(c) water resource development in form of boreholes, dams among others;

(d) storm water management;

(e) drainage or reclamation of lands;

(f) irrigation schemes and related works in collaboration with the National Irrigation Board and other relevant bodies;

(g) construction of water storage systems;

(h) re-establishing green water storage areas such as wetlands and forests, water saving technologies, ground, ground aquifer re-charging;

(i) recycling treated effluent water,

(j) rehabilitation and restoration of water storage

(k) conservation of water or improvement of water quality; and

(l) any other works done in exercise and performance of the mandate of the County Governments stipulated in the Fourth schedule of the Constitution.

Compulsory acquisition of land

38. (1) The Board may through the National Land Commission and in the manner provided for in the Land Act initiate land acquisition process for the works provided in this Act.

(2) A licensee, or an applicant for a licence, who requires the compulsory acquisition of land for any of its purposes may apply to the Board, who may, and upon being satisfied that such compulsory acquisition is desirable, take any steps necessary to secure the compulsory acquisition of the land in accordance with the applicable laws.

(3) The purposes of a licensee or an applicant for a licence shall be deemed, for the purposes of subsection (1), to include any necessary protection of a source of supply which belongs to the licensee or will belong to it following the acquisition, or which it is or will be authorized to take, against pollution or other degradation, whether on the surface or underground.
(4) Any purpose for which land may be acquired under this section shall be deemed, for the purposes of the law on land acquisition, to be a public purpose.

Measures for control of pollution

39. The Board shall in collaboration with the relevant bodies in the national government—

(a) set up a cost-effective pollution monitoring program;

(b) enforce regulations through polluter-pays principle, and other legal and administrative actions set out under this Act, the Environmental Management and Coordination Act and Public Health Act;

(c) ensure untreated effluent water is not released in to water resources;

(d) treat effluent water and re-use or recycle it for irrigation and other purposes in the County; and

(e) put in place any other lawful measures to control pollution.

Cap. 387

Cap 242

Catchment areas

40. (1) In accordance with the national water resources management strategy, the Board may by notice published in *the Gazette* designate a defined area from which rainwater flows into a watercourse to be a catchment area for the purposes of this Act.

(2) A catchment area designated under this section may lie wholly or partly within another catchment area.

Catchment management strategy

41. (1) Following public consultation, the Board shall formulate a catchment management strategy for the management, use, development, conservation, protection and control of water resource within each catchment area.

(2) It shall be the duty of the Board to review the catchment management strategy made from time to time.

(3) A catchment management strategy shall—
(a) take into account the class of water resource and resource quality objectives for the water;

(b) be consistent with the national water resources strategy;

(c) prescribe the principles, objectives, procedures and institutional arrangements of the Board for the management, use, development, conservation and control of water resources within each catchment area;

(d) contain water allocation plans which set out principles for allocating water; and

(e) provide mechanisms and facilities for enabling the public and communities to participate in managing the water resources within each catchment area.

(4) The catchment management strategy, as in force for the time being, shall be published in the Gazette.

(5) Without prejudice to the generality of subsection (3) (e), the catchment management strategy shall encourage and facilitate the establishment and operation of water resources users associations as a means for conflict resolution and co-operative management of water resources in catchment areas.

County schemes and community projects

42. (1) In this Part—

“community project” means a project approved by the Board and operating under a permit for one or more purposes which are—

(a) connected with the use of water or the drainage of land situate entirely, or for the most part, within a given area; and

(b) classified by the Board as community purposes, by notice published in the Gazette, to be a community project for the purposes of this Act;

“county scheme” means—

(a) a scheme, whether formulated in detail or not, for the use for any public purpose of the whole or part of a water resource;
(b) a reservation by the Board after public consultation, of the whole or part of a water resource for use for any public purpose; or

(c) a scheme for draining any land, which has been declared by the Board by notice published in the Gazette, to be a county scheme for the purposes of this Act.

(2) For the purposes of the definition of "county scheme" in subsection (1), "public purpose" includes any of the following—

(a) the supply of water, or of electrical energy derived from the energy of moving water, to the public or any section of the public;

(b) the drainage or reclamation of lands;

(c) the protection of any water resource, its source or catchment;

(d) identification and development of a retarding basin for the control and management of flood water or any other measures for its control or disposal;

(e) the conservation or improvement of water quality;

(f) the distribution, apportionment or measurement of water;

(g) the storage or impoundment of water for purposes of bulk distribution, including the construction of reservoirs for impounding surface runoff and for regulating stream flows to synchronize them with water demand patterns.

(h) development of rain water harvesting and storage, including but not limited to the construction of dams, gutters, water pans.

(i) Installation of relevant plumbing systems for rain water harvesting and storage in public primary and secondary schools and other public institutions in the county.

(3) For the purposes of subsection (2)(a) the Board shall incorporate a county water company within one year after the commencement of this Act.
Precedence of schemes and projects

43. (1) A county scheme shall take precedence over all other schemes for the use of water or the drainage of land.

(2) A community project shall take precedence over all other schemes for the use of water or the drainage of land, except a county scheme.

(3) The Board—

(a) may direct that a county scheme or community project shall be executed in augmentation, modification or improvement and, subject to the provisions of this Act, so as to supersede any other works for the use of water; and

(b) may at any time order that any works contemplated or under execution or completed shall be aided from public moneys to such extent as may be authorized by the County assembly.

Acquisition of land for county scheme

44. Land required for a county scheme may be acquired in any manner provided by law for the acquisition of land for public purposes.

Community projects

45. The Board shall not approve any community project unless—

(a) the proposed project is approved by the persons owning or occupying the land in the particular area concerned in the project; and

(b) provision is made by the project for an adequate alternative supply of water to be supplied to persons likely to be adversely affected and unable to benefit from the scheme.

Charge for benefits resulting from schemes and projects

46. When all or part of the cost of a county scheme or community project has been paid from moneys provided by the County assembly, any person who in the opinion of the Board, has benefited by the scheme or project shall, if the Board so determines, pay a water rate or other charge for that benefit calculated as prescribed by rules made under this Act.
Ground water conservation areas

47. (1) Where the Board is satisfied that, in any area, special measures for the conservation of groundwater are necessary in the public interest—

(a) for the protection of public water supplies; or

(b) for the protection of water supplies used for industry, agriculture or other private purposes, it may, following public consultation, by order published in the Gazette declare the area to be a ground water conservation area.

(2) The Board may impose such requirements, and regulate or prohibit such conduct or activities, in or in relation to a ground water conservation area as the Board may think necessary to impose, regulate or prohibit for the protection of the area and its ground water.

Requirement for permit

48. (1) A permit shall be required for any of the following purposes—

(a) any use of water from a water resource, except as provided by section 49;

(b) the drainage of any swamp or other land;

(c) the discharge of a pollutant into any water resource;

(d) any purpose, to be carried out in or in relation to a water resource, which is prescribed by rules made under this Act to be a purpose for which a permit is required.

(2) Nothing in this section applies to the purposes of a county scheme under this Part.

Permit not required for certain activities

49. (1) Except as provided by subsection (2), a permit is not required—

(a) for the abstraction or use of water, without the employment of works, from or in any water resource for domestic purposes by any person having lawful access thereto;
(b) for any development of ground water, where none of the works necessary for the development are situated—

(i) within one hundred metres of any body of surface water (other than enclosed spring water, as defined in subsection (3)); or

(ii) within a ground water conservation area; or

(c) for the storage of water in, or the abstraction of water from, a dam constructed in any channel or depression which the Board has declared, by notice published in the Gazette, not to constitute a watercourse for the purposes of this Act.

(2) Subsection (1) does not apply in relation to any activity mentioned in that subsection which is carried on in prescribed circumstances, where rules made under this Act provide that a permit shall be required for the carrying on of that activity in those circumstances.

(3) For the purposes of subsection (1)(b)(i), "enclosed spring water" means water in a spring which—

(a) is situated wholly within the boundaries of the land owned by any one landholder; and (b) does not naturally discharge water into a watercourse abutting on, or extending beyond, the boundaries of that land.

(4) Rules made under this Act may make provision for or with respect to the use of water from a water resource in any manner for which a permit is not required.

(5) Without prejudice to the generality of subsection (4), such rules may—

(a) prohibit any such use of water in prescribed circumstances; or

(b) require the consent or permission of the Board for any such water use of a prescribed kind or description.

Easements for works

50. (1) The holder of a permit which authorizes the construction of works that would (or a portion of which would), when constructed, be situated upon lands not held
by the permit holder shall acquire an easement on, over or through the land on which the works would be situated and, unless the works have previously been lawfully constructed, shall not construct or use the works unless and until he has acquired such an easement.

(2) The provisions of the Third Schedule shall apply in respect of the acquisition of, and subsequent rights pertaining to or against, any such easement.

Conditions of permits

51. (1) A permit shall be subject to—

(a) such conditions as may be prescribed by or under this Act in relation to the permit; and

(b) such other conditions, not inconsistent with the conditions so prescribed, as the Board may impose by endorsement on, or instrument in writing annexed to, the permit.

(2) Without prejudice to the generality of subsection (1), the provisions of the Second Schedule shall be conditions of every permit which authorizes the construction of works.

(3) Rules made under this Act may make provision imposing conditions on, or with respect to the conditions which are or shall be imposed on, permits generally or any class or description of permits.

(4) Without prejudice to the generality of subsection (2), such rules may—

(a) require the imposition of prescribed conditions in prescribed circumstances;

(b) require the payment by the permit holder of prescribed fees in respect of the exercise of rights under the permit;

(c) provide that a contravention of any or any specified conditions prescribed by or under this Act as conditions of permits shall constitute an offence punishable by a prescribed penalty.

(5) The imposition of a penalty by a rule made in accordance with subsection (4)(c) shall not prejudice any
remedy for the recovery of damages for any loss, damage or injury sustained by any person by reason of the contravention in respect of which the penalty is imposed.

Considerations for the issue of permits

52. (1) In issuing a permit, and in fixing any conditions to be imposed on a permit, the Board shall take into account such factors as it considers relevant, including—

(a) existing lawful uses of the water;
(b) efficient and beneficial use of water in the public interest;
(c) any catchment management strategy applicable to the relevant water resource;
(d) the likely effect of the proposed water use on the water resource and on other water users;
(e) the class and the resource quality objectives of the water resource;
(f) the investments already made and to be made by the water user in respect of the water use in question;
(g) the strategic importance of the proposed water use;
(h) the quality of water in the water resource which may be required for the reserve; and
(i) the probable duration of the activity or undertaking for which a water use is to be authorized.

(2) The use of water for domestic purposes shall take precedence over the use of water for any other purpose, and the Board may, in granting any permit, reserve such part of the quantity of water in a water resource as in its opinion is required for domestic purposes.

(3) The nature and degree of water use authorized by a permit shall be reasonable and beneficial in relation to others who use same sources of supply or bodies of water.

(4) A permit shall, subject to this Act, remain in force for the period specified in it, and may, to the extent that the permit so provides, be renewed from time to time.
Export of water to other counties

53. (1) The Board shall formulate rules for the export of water from county water resources to other counties.

(2) Without prejudice to subsection (1) the water shall be metered at the point of exit and such levies, fees or charges as shall be prescribed by the rules shall be charged.

PART VII – FINANCIAL PROVISIONS

Funds

54. (1) There is established a fund to be known as the Murang’a Water Fund.

(2) The Fund shall consist of—

(a) such monies as may be appropriated by the County assembly;

(b) licence and other fees as may be payable under this Act;

(c) sums received, including contributions, gifts or grants from or by way of testamentary bequest by any authority or any person;

(e) moneys earned or arising from any investment of the Fund;

(f) all other sums which may in any manner become payable to, or vested in, the Fund.

Application of funds

55. The funds accruing to the Board, may be used for all or any of the following purposes—

(a) in meeting costs incurred in the performance of its functions under this act;

(b) the remuneration of members of the staff and technical advisers of the Board;

(c) the provision of offices, and of furniture and equipment therefore, as the Board may deem necessary;

(d) the payment of such remuneration, fees, travelling and other expenses and subsistence allowances to members of the Board on such scale and subject to such conditions as may be approved by the county public service board;
(e) experiments, investigation and research in connection with the water industry;

(f) the collection and dissemination of statistics and other information relating to water and its production, distribution and consumption;

(g) the establishment of libraries, laboratories, experimental stations, workshops and factories, and the provisions of facilities ancillary thereto;

(h) the payment of expenses and other charges incurred by the Board or for which the Board may become liable in the course of its operations;

(i) assisting the water industry of Murang’a County in such manner as the Board may think fit.

Investment of funds and borrowing powers

56. (1) The Board may, with the approval of the County Assembly, invest any funds which may from time to time be standing to its credit, and which are not immediately required for any of the purposes specified in section 55, in such investments as the Board may recommend.

(2) The Board may, with the approval of the Executive Members responsible for water and finance, and in accordance with the Public Finance Management Act raise or borrow sums of money for the purposes of discharging its functions under this Act, and may, for that purpose, mortgage or charge the whole or any part of its property.

No. 18 of 2012

Audit of accounts

57. (1) The Board shall cause to be kept such books of account and other books in relation thereto and to all its undertakings, funds, activities and property as the Executive Member may from time to time prescribe; and shall, within a period of four months after the end of its financial year or within such longer period as the Executive Member may approve, cause to be prepared, signed and transmitted to the auditor—

(a) a balance sheet showing in detail the assets and liabilities of the Board; and
(b) such other statements of account as the Executive Member may require.

(2) The accounts of the Board shall be audited and reported upon by the Controller and Auditor-General in accordance with the provisions of the Public Audit Act No. 12 of 2003

(3) The Board shall produce and lay before the auditor all books and accounts of the Board, with all vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto, and the auditor shall be entitled to require from all members, officers, employees and agents of the Board such information and explanation as he may consider to be necessary for the performance of his duties as auditor; and the expenses of and incidental to the audit shall be paid by the Board.

Report and accounts to be submitted to Executive Member

58. (1) The Board shall, within a period of three months after the end of its financial year or within such longer period as the Executive Member may approve, submit to the Executive Member a report of its operations during such year, and the yearly balance sheet and such other statements of account as the Executive Member may require together with the auditor’s report thereon; and the Board shall, if the Executive Member so requires, publish them in such manner as the Executive Member may specify.

(2) The Executive Member shall lay the Board’s report and the auditor’s report, together with the balance sheet and such other statements of account as he may have required, before the County Assembly within thirty days after receipt of the reports and statements by him, or, if the County Assembly is not then sitting, within fourteen days after the commencement of the next sitting.

PART VIII—GENERAL PROVISIONS

Power to make Regulations

59. (1) The Board may make Regulations on any matter which is necessary or expedient to be prescribed for carrying out or giving effect to this Act.
(2) Without prejudice to the generality of subsection (1) the Board may make Regulations—

(a) prescribing the amount of fees payable under this Act generally or in particular cases;

(b) the circumstances in which licences and agreements may be applied for, granted, varied, refused or cancelled, and the manner in which a person to whom a licence is granted may exercise a right or privilege conferred upon him by the licence;

(c) forms to be used under this Act;

(d) provision of bottled or mineral water; or

(e) county water projects.

(3) Without prejudice to subsection (1) the nature and scope of the Regulations shall—

(a) be in line with the general purpose and objectives of this Act;

(b) be limited only to the matters set out in this Act; and

(c) comply to the drafting standards set out under this Act.

Existing Water Rights

60. (1) A right to the use of water in any body of water, being a right existing immediately before the commencement of this Act and which was acquired—

(a) under any provision of the Water Act or

(b) by agreement or otherwise, shall be deemed to be a right conferred by a permit under this Act, and any instrument by which the right was conferred shall be deemed to be such a permit, and may be dealt with under this Act accordingly.

(2) All such existing licence holders shall apply for issue of licences under this Act within six months of the commencement of this Act.
No. 8 of 2002

Offences

61. (1) A person who knowingly—

(a) obstructs, interferes with, or diverts water from any watercourse or water resource, or negligently allows any such obstruction, interference or diversion;

(b) throw or convey, or cause or permit to be thrown or conveyed, any rubbish, dirt, refuse, effluent, trade waste or other offensive or unwholesome matter or thing into or near to any water resource in such manner as to cause, or likely to cause pollution of the water resource;

(c) carries on agricultural activities within the ten metre mark along the banks of any water resource;

(d) defaces, alters, removes or interferes with any county works, commits an offence and shall, upon conviction be liable to a fine not exceeding fifty thousand shillings or to imprisonment of a term not exceeding twelve months or to both.

FIRST SCHEDULE

(Section 4)

MEMBERSHIP AND PROCEDURE OF THE BOARD

1. Application of this Schedule

(1) This Schedule applies to—

(a) the Board

(b) any committee that may be formed pursuant to the Act.

(2) In this Schedule, unless the context otherwise requires—

"board" means a board to which this Schedule applies;

"Chairman" means the Chairman of a board or committee;

"committee" means a committee formed pursuant to the Act

"member" means a member of a board or committee.
2. Qualification of members

In making an appointment to a board or committee, the person making the appointment shall have regard to—

(a) the educational qualifications, experience, expertise, character and integrity of potential candidates for membership; and

(b) the degree to which water users, or water users of particular kinds, are to be represented on a committee at the time the appointment is made.

3. Term of office

(1) Save for the members holding public offices at the national or county government as the case may be, a member shall hold office for such term, not exceeding three years, as may be specified in the instrument of his appointment.

(2) A member shall be eligible (if otherwise qualified) for reappointment from time to time.

4. Acting Chairman

(1) A person may from time to time be appointed to act in the office of Chairman during the illness or absence of the Chairman, and a person so appointed shall, while so acting, have all the functions of the Chairman and shall be deemed to be the Chairman.

(2) An appointment under this paragraph may be made, and at any time revoked, by the person or body who appointed or elected the Chairman or by any of their successors in office.

(3) For the purposes of this paragraph, a vacancy in the office of Chairman shall be deemed to be an absence from office of the Chairman.

5. Terms and conditions of service

The terms and conditions of service of a member, including the remuneration, travelling and other expenses to which he is entitled, shall be as prescribed by rules made under this Act.

6. Vacancy in office of member

(1) The office of a member shall become vacant if—
(a) he dies, resigns or is removed from office;

(b) he absents himself from four consecutive meetings of the board or committee of which reasonable notice has been given to him personally or in the ordinary course of post, unless—

(i) the board or committee has granted the member leave to be absent from those meetings; or

(ii) within four weeks after the last of those meetings, he is excused by the board or committee for having been absent from those meetings;

(c) he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;

(d) he is adjudged or declared by any competent court or tribunal to be of unsound mind; or

(e) he is convicted of an offence punishable by imprisonment for 12 months or more.

(2) If the office of a member becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

7. Disclosure of pecuniary interests

(1) A member who has a direct or indirect pecuniary interests—

(a) in a matter which is being considered, or is about to be considered, at a meeting of a board or committee of which he is a member; or

(b) in a thing being done or about to be done by the board or committee, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of the interest at a meeting of the board or committee.

(2) A disclosure at such a meeting that the member concerned—

(a) is a member, or is in the employment, of a specified company or other body;
(b) is a partner, or is in the employment, of a specified person; or

c) has some other specified interest relating to a specified company or other body or a specified person, shall be deemed to be a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure.

(3) The board or committee shall cause particulars of any disclosure made under subparagraph (1) or (2) to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to the inspection, free of charge, of any person.

(4) After a member has, or is deemed to have, disclosed the nature of an interest in any matter or thing under subparagraph (1) or (2), the member shall not, unless it is otherwise determined—

(a) be present during any deliberation, or take part in any decision, of the board or committee with respect to that matter; or

(b) exercise or perform any powers or functions under this Act with respect to that thing, as the case may require.

(5) A determination under subparagraph (4) may only be made—

(a) in relation to the board by a majority of the board members present and voting;

(b) in relation to a committee by a majority of the committee members present and voting;

8. General procedures

Except as otherwise provided by or under this Act—

(a) meetings of a board or committee shall be held at such times and places as are fixed by the Chairman; and

(b) the procedure for the convening of meetings and for the conduct of business at those meetings shall be as determined by the Chairman.
9. Quorum

A majority of the members for the time being holding office as members of the board or a committee shall constitute a quorum at any meeting of the board or committee.

10. Presiding members

The Chairman (or, in the absence of the Chairman, a member appointed by the members then present) shall preside at a meeting of the board or committee.

11. Decisions

A decision supported by a majority of the votes cast at a meeting of the board or committee at which a quorum is present shall be the decision of the board or committee.

12. Record of proceedings

The Secretary of the board or of a committee shall cause a record of the proceedings at the meeting to be made.

13. First meeting

The first meeting of the board shall be called by the Executive Member not later than ninety days after commencement of this Act.

SECOND SCHEDULE

(Section 51)

CONDITIONS RELATING TO CONSTRUCTION OF WORKS

1. Meaning of “authorized works”

In this Schedule, “authorized works” means works the construction of which is authorized by a permit.

2. Inspection of works during construction

Any authorized works may, if the Board so determines, be inspected during construction by its officers.

3. Works to be made secure

(1) Upon any inspection made under this Schedule, the Board may order the permit holder to make any
addition or alteration which it considers necessary for the security of any authorized works, whether completed or in the course of construction.

(2) If such an order is not complied with to the satisfaction of the Board within such period as it may specify, the permit authorizing construction of the works may be cancelled or modified by the Board.

4. Road crossings

(1) A permit holder constructing any authorized works—

(a) shall, during their construction, keep open for safe and convenient travel all public roads and rights of way, publicly used as such, when they are crossed or interfered with by the works; and

(b) shall, before water is admitted to the works, construct to the satisfaction of the Board (or, at the option of the Board, refund to it the costs of construction by it of)—

(i) a substantial bridge with proper and sufficient approaches thereto over the works; and

(ii) such railings, fences, guard posts, culverts, face-walls and other structures and appurtenances as the Board may declare to be necessary in the public interest.

(2) All such bridges, approaches and appurtenances shall be maintained by the permit holder, while his permit is valid, or alternatively, at the option of the Board, by the Board at the expense of the constructor.

(3) The Board may at any time, at its own cost, renew or alter any such bridge or any structure or works in connection therewith.

5. Completion certificate and inspection

(1) Upon the expiration of the time limited by a permit for the construction of works authorized by the permit, or before the expiration of that time, if the construction be sooner completed, the permit holder shall submit a completion certificate in the prescribed form.
(2) Thereupon an inspection may be made, by an officer appointed for the purpose by the Board, to ascertain that—

(a) the works have been completed in accordance with the permit;

(b) the easements, if any, for the works have been obtained;

(c) agreements, if any are necessary, have been entered into for the supply of water for utilization on lands which are not the property of the permit holder or for the drainage of lands; and

(d) the works as constructed are of the required capacity.

(3) If construction is not completed within the time limited by the permit, a progress report shall be submitted in lieu of a completion report, and the permit holder may apply for an extension of time.

(4) An extension of time under subparagraph (3) may be refused or may be sanctioned upon such terms as the Board may specify.

6. Forfeiture of rights of works not completed within time allowed

Upon the expiration of the time limited by a permit for the construction of works authorized by the permit, or by any extension of that time, the rights granted to the permit holder under the permit shall cease and determine, and any works constructed, erected, fixed or acquired at the date of such determination may be taken over and operated, or disposed of, in such manner as the Board may specify.

7. Works to be kept in repair

Every permit holder shall maintain and retain his works in a good, proper and workmanlike manner to the satisfaction of the Board, so that—

(a) they are, at all times, of sufficient strength and capacity for the fulfilment of the purposes for which they were constructed; and

(b) no damage occurs to any road, property or work in their vicinity.
THIRD SCHEDULE
(Section 50)

EASEMENTS

1. Encumbrances

The acquisition of an easement in accordance with this Schedule shall not affect the burden or benefit of any encumbrance on the land existing at the date of the acquisition or the liability or right of any person in respect thereof.

2. Easement includes right of access

(1) An easement shall include the right of access, along a route to be approved by the Board after consultation with the owner, to any piece of land contiguous to the water of the permit holder in so far as may be necessary for the purpose of constructing, inspecting, maintaining, operating or repairing the works of the permit holder and for any purpose necessary for the effective enjoyment of the easement.

(2) The permit holder shall, however, give reasonable notice to the occupier of the land over which the easement is held of his intention to enter the land for any of the purposes mentioned in this paragraph.

3. Permit holder must avoid flooding lands and maintain canal satisfactorily

A permit holder who has acquired an easement which authorises the construction of a canal—

(a) shall take and maintain adequate measures for preventing the introduction into the canal of a greater quantity of water than that which the canal is capable of carrying; and

(b) shall not cause damage to any land in respect of which the easement is held by permitting the accumulation of weeds, silt or any other obstruction or nuisance which might cause flooding or any other damage whatsoever.

4. Damage caused by works of permit holder

(1) If damage is caused, as the result of works of a permit holder, to the land over which the easement is held,
the landholder may require the permit holder to construct such additional works as are necessary, in the opinion of the Board, to prevent such damage or any recurrence thereof, and the Board may by order require the permit holder to construct such additional works at his sole expense.

(2) If the permit holder fails to comply with an order of the Board given under this paragraph, the Board may cancel his permit.

5. Permit holder to construct works to enable landholder to enjoy his existing works it interfered with

(1) A permit holder who has acquired an easement for the construction of works on another landholder’s land which prevents the landholder passing freely over or on his land as he could before, or interferes with his existing works, structures or devices upon his land, shall, at his own expense, construct and maintain in repair, to the satisfaction of the Board and under such conditions as it may prescribe—

(a) such bridges and other structures and devices as will make communication safe and convenient; or

(b) such works, structures or devices as the Board considers necessary to enable the landholder effectually to enjoy the use of any work, structure or device interfered with.

(2) Any permit holder who fails to comply with the provisions of this paragraph shall be guilty of an offence.

6. Permit holder desiring easement to serve notice on landholder

(1) A permit holder claiming an easement under this Act shall serve a notice on the holder of the land on, over or through which he desires to acquire the easement, and shall in such notice state the following particulars, and such further particulars as may be required by rules made under this Act—

(a) a description of the proposed works and a statement of their use;
(b) a statement of the quantity or discharge of water, if any, to be diverted or deal with;

(c) a map showing clearly the nature and locality of any works or area of swamp or land to be reclaimed, if the easement is for reclamation of a swamp or lands;

(d) a statement of the area of the land (if any) which is or will be—

(i) occupied by the works;

(ii) flooded as a result of the works;

(iii) required for the purposes of inspection and maintenance of the works;

(iv) required for the excavation or collection of material for the works, or for the deposit of soil or material derived from the works;

(v) required for a road or roads to obtain access to the works; or

(vi) required for the control or prevention of pollution of the water to be used; and

(e) a statement of the compensation which is offered and the period of time during which the permit holder wishes to enjoy the easement.

(2) A copy of the notice shall be sent by the permit holder to the Board.

7. Consent of landholder to easement

If the landholder agrees to the claim for an easement, either as originally proposed or as modified by agreement, the permit holder—

(a) shall embody the particulars and other matters pertaining thereto in a deed or other instrument suitable for registration; and

(b) after its execution by the parties concerned, shall send two copies of such deed or other instrument, certified by the Registrar of Titles, to the Board.

8. Application if landholder does not consent

If the landholder does not, within two months after the service of a notice under this Schedule, agree to the claim
for an easement or to any other matter necessary for an easement, the permit holder may apply to the Board, in the prescribed manner, for an easement, and shall serve notice of such application upon the landholder.

9. Determination application to easement

(1) The Board may either dismiss the claim for an easement or grant the claim with or without modification and subject to such conditions, and to the payment of such compensation, as to the Board seems just.

(2) The Board shall notify the permit holder and the landholder of its decision.

(3) When the claim for an easement has been granted, the permit holder shall embody the particulars and other matters pertaining to an easement granted under subparagraph (1) of this paragraph in a deed or other instrument suitable for registration, and shall tender the deed or instrument, together with the amount of any award of compensation made, to the landholder for execution.

(4) If the landholder fails within such time as may be specified by the Board to execute and deliver the deed or instrument to the permit holder, the Board may do so on his behalf, and thereupon the deed or instrument shall have the same effect as if it had been executed by the landholder.

(5) The Registrar of Titles shall register the deed or instrument against the title affected, and two copies of such deed or instrument, certified by the Registrar of Titles, shall be sent by the permit holder to the Board.

(6) Where an appeal has been lodged under subparagraph (2) of this paragraph, no action shall be taken under subparagraphs (3), (4) or (5) of this paragraph until the appeal has been decided.

10. Lapsing of easement

(1) An easement acquired under this Act shall lapse—

(a) if the works authorized are not completed and the water is not utilized within one year from the date of acquiring the easement or within such further period as the Board may determine; or

(b) if, at any time, substantial use is not made of the permit in accordance with the terms of the permit.
for a continuous period of two years, or such longer period as the Board may, from time to time, in any particular case, determine.

(2) Upon the lapse of an easement, the Board shall notify the Registrar of Titles, who shall, without charge, cancel the registration of the easement against the title affected.

11. Permit holder to keep works in state of repair

(1) If any work constructed on the land of a person other than the permit holder is out of repair or requiring cleaning, the permit holder or agent shall, if required in writing by the landholder to repair or clean such work, carry out such requirements within a reasonable time.

(2) If the permit holder fails so to do, the landholder may cause to be done all things necessary for carrying out such repairs or cleaning, and may recover the cost thereof from the permit holder in any court of competent jurisdiction.

(3) Such repairs or cleaning shall not be unreasonably demanded, and, in the event of a dispute between the parties, the Board shall decide what constitutes reasonable repairs or cleaning.

(4) A permit holder who allows or suffers any such works to fall into disrepair or, in the opinion of the Board, to be in such a state as to require cleaning shall be liable for all damage which may arise as a consequence.

14. Landholder may demand and obtain use of works

(1) Any landholder on, over or through whose lands an easement has been applied for or been granted may, by application to the Board either before or after the construction of any works, apply for a permit to make use of such works or the proposed works for the diversion, abstraction, storage or use of whatever water he may become entitled to divert, store or use under this Act.

(2) Before such a permit or authorization is issued by the Board—

(a) the landholder shall prove, to the satisfaction of the Board, that the works of the permit holder can be satisfactorily used for the purpose of the
landholder and without material detriment to the permit holder; and

(b) such proportionate cost of the works shall be paid by the landholder to the permit holder who constructed or is constructing the works as may be agreed on between the parties or, failing agreement, as may be determined by the Board.

(3) The permit holder may require the landholder to enter into an agreement to continue to pay the proportionate cost of maintaining the portion of the works made use of, until either party has in writing surrendered such right of user and, in the event of disagreement, the matter shall be decided by the Board.

(4) If such works require modification to enable the landholder to enjoy their use, he shall, unless the matter is otherwise agreed, pay to the permit holder—

(a) the entire cost of modifying them in the manner approved by the Board; and

(b) the cost of constructing and maintaining such devices for apportioning the quantities of water as the Board may prescribe or approve.

(5) When it is proved to the satisfaction of the Board that altered conditions have rendered revision of such rate of payment just and equitable, the Board shall inform the parties concerned, and, failing agreement between such parties on any such revision of the rate of payment, the matter shall be referred to and decided by the Board.

15. Landholder may use land occupied by excavated material for own purposes

When works have been excavated by a permit holder on another person’s land—

(a) any land used solely for the deposit of excavated material from the works executed shall, notwithstanding the payment of compensation and except in the case of an easement for drainage or reclamation, remain available to the landholder for his own purposes; and

(b) he landholder may remove such excavated material:
Provided that no damage shall be done to the works of the permit holder, nor shall the works be obstructed or interfered with by such removal.

16. Easement to be registered

The deed or other instrument creating an easement acquired under the Schedule shall be registered against the title affected, and a plan, which shall be approved and signed by, or by the Board of, the Director of Surveys, shall be attached to each document granting the easement.

17. Determination of easement

(1) An easement acquired under this Act shall determine if and when the permit for the exercise of rights under which the easement has been acquired is cancelled as provided for in this Act.

(2) On the determination of the relevant permit, any works constructed by the permit holder on the lands of another person shall, where the permit holder is the sole permit holder, become the property of such other person unless removed by the permit holder—

(a) voluntarily, within two years from the date of such determination; or

(b) at the order of the Board at the request of the other person.

18. Registration of determination or variation of easement

On the determination or variation of an easement, the Board shall notify the landholder over whose land the easement was granted, and the Registrar of Titles and the landholder concerned may, at the expense of the person in whose name the easement is registered, take such action as is necessary to cause his title to be freed from the easement or to record the variation, as the case may require.
FOURTH SCHEDULE
(Section 45)

ABSTRACTION OF GROUND WATER

1. Application of this Schedule

This Schedule shall apply to the extraction of ground water whether or not for a purpose or in circumstances which require a permit.

2. Notice of intention to construct well

(1) No person shall construct or begin to construct a well without having first given to the Board notice of his intention to do so and shall comply with such requirements as may be imposed by the Board.

(2) Unless otherwise exempted, a person constructing a well shall keep a record of the progress of the work, which shall include—

(a) measurements of the strata passed through and specimens of such strata;

(b) measurements of the levels at which water was struck; and

(c) measurements of the quantity of water obtained at each level, the quantity finally obtained and the rest level of the water.

(3) A person to whom subparagraph (2) applies shall allow any person authorized by the Board, at any reasonable time—

(a) to have free access to the well;

(b) to inspect the well and the material excavated from it;

(c) to take specimens of such material and of water abstracted from the well; and

(d) to inspect and take copies of or extracts from the record required to be kept under this paragraph.

(4) Where the person constructing a well on any land is not the occupier of the land, the obligation to allow any person authorized by the Board to exercise his rights under this paragraph shall be the obligation of the occupier of the land as well as of the person constructing the well.
(5) The Board may by notice, whether conditionally or subject to specified conditions, exempt any person, in such circumstances as may be specified in the notice from the operation of subparagraphs (2) and (3).

3. Submission of records

A person constructing a well, if required to keep records under this Part, shall, within one month of the cessation of the construction, send to the Board—

(a) a complete copy of the record, together with the specimens referred to in the record; and

(b) particulars of any test made, before such cessation of the construction, of the yield of water, specifying—

(i) the rate of flow throughout the test and the duration of the test; and

(ii) where practicable, the water levels during the test and thereafter until the water has returned to its natural level; and

(c) a statement of whether, in his opinion (as determined by tasting) the water is suitable for drinking or is highly mineralised, as the case may be; and

(d) if required by the Board, such water samples as it may consider necessary.

4. Tests on neighbouring wells

(1) Where any well is being constructed within eight hundred metres of an existing well, the Board may by notice require the person constructing the well to apply tests, to the specified in the notice, to the existing well and to supply to the Board the particulars of the results of such tests including the rate of pumping and rest levels of water.

(2) Where the well to which the tests are to be applied is situated on the property of a person other than the person constructing the well and the person constructing the well is unable for any reason to apply the test, the Board may by notice, require the person upon whose property the existing well is situate to apply the tests to be specified in the notice to him, and to supply to the Board the particulars of the results of such tests.
5. Contractor deemed to be constructor

Where any borehole contractor constructs a borehole for the purposes of a well on land belonging to or occupied by any other person, the borehole contractor shall be deemed, for the purposes of this Act, to be the person constructing the well.

6. Records may be required to be treated as confidential

(1) A person constructing a well or the owner or occupier of the land on which construction takes place may give notice to the Board requesting that—

(a) any copy of, or extract from, the record required to be kept under this Act; or

(b) any specimen taken or any other particulars connected with the well;

be treated confidentially.

(2) In response to such a notice, the Board shall, if sufficient cause has been shown, thereupon not allow such copy extract, specimen or other particulars, except in so far as it contains or affords information as to water resources or supplies, to be published or shown to any person other than a member of the Board without the consent of the person giving the notice:

Provided that, if at any time the Board gives notice to the person that, in its opinion, his consent is unreasonably withheld—

(i) the person may, within three months after the notice given by the Board, appeal to the Board for review; and

(ii) if, at the expiration of that period, no such appeal has been made the Board may proceed as if such consent had been given.

7. Waste of ground water

(1) No person shall, except with the written permission of the Board—
(a) cause any ground water to run to waste from any well, except for the purpose of testing the extent or quality of the supply or cleaning, sterilising, examining or repairing the well;

(b) abstract from any well water in excess of his reasonable requirements and which he cannot use in a reasonable and beneficial manner;

(c) conduct the water from any well through any channel or conduct so that more than twenty per cent of the water is lost between the point of appropriation and the point of beneficial use:

Provided that, where the water from any well is conducted through channels or conducts together with water from other sources, no person shall permit the waste of more than twenty per cent of the water in conducting the water from the point of appropriation of the well water to the point of beneficial use;

(d) use any water from any well for the purpose of domestic use or the watering of stock, except where such water is carried through pipes fitted with float valves or other satisfactory means of control, to prevent waste:

Provided that, where ground water interferes or threatens to interfere with the execution or operation of underground works, whether water works or not, the Board may, in any particular case, by notice permit such water to waste upon such conditions, regarding quantity and method of disposal, as the notice may specify.

8. Defective wells

(1) Any well which encounters salt water, in this Part referred to as a "defective well", shall be securely cased, plugged or sealed off by the owner of the well, so that the salt water is confined to the strata in which it was found, and such casing, plugging or sealing shall be done in such a manner as effectively to prevent the salt water from escaping from the strata in which it was found into any other waterbearing strata or on to the surface of the ground.

(2) This paragraph shall apply to wells constructed before or after the commencement of this Act.
9. Interference with defective well

Any person who re-cases or removes the plugs or seals from a defective well, or deposits, or causes or knowingly permits the deposit of, any dirt, rubbish or other material in any such well, except with the written permission of the Board, shall be guilty of an offence.

10. Application to carry out work on a defective well

(1) Before any defective well is re-cased or the plugs or removed, the owner of the well, or his duly authorized representative, shall file with the Board an application for permission to carry out such re-casing or the removal of the plugs or seals.

(2) The application shall contain such information as the Board may require to—

(a) the name and address of the owner of the well;
(b) its location, depth and size;
(c) the amount and location of casing or sealing in the well;
(d) the distance below the surface of the ground to the water level in the well;
(e) the strata penetrated;
(f) the distance from the surface of the ground to the top of the salt water stratum and the thickness of the salt water stratum; and
(g) any other matter specified by the Board in respect of the well.

(3) The application shall also state the methods proposed for recasing, replugging or resealing of the well.

11. Instructions to deal with defective well

The Board, after consideration of any application under paragraph 10, may call for additional data, and may make such investigation as it considers necessary, and if the well is found to contain salt water, shall by order give instructions to the applicant, specifying—

(a) the work that shall be done by the owner to place it in a satisfactory condition; and
(b) the time that shall be allowed to complete the work, and may inspect such work while it is in progress.

12. Board may inspect well

The Board may on its own initiative, or upon information or complaint from any source, make an examination of any well suspected of containing salt water, and may by order issue instructions for curing any defects in the well.

13. Sworn statement to be submitted

(1) Upon completion of the works in pursuance of any instructions issued under the Schedule—

(a) the contractor who carries out the work; or

(b) if the work is done without a contractor, the owner of the well, shall file with the Board a statement sworn or affirmed specifying in detail the manner in which such work was done.

(2) The statement shall be filed within thirty days after the completion of the work.

14. Additional work on defective well

(1) Upon receipt of a statement under paragraph 13, the Board shall determine, either from the statement or from inspection or test, whether the work has been satisfactorily performed.

(2) If the Board determines that the work has not been satisfactorily performed, it shall by order issue additional instructions specifying the additional work required to place the well in a satisfactory condition, and specifying the time for the completion of such additional work.

(3) Upon the completion of such additional work, a statement sworn or affirmed shall be filed with the Board as provided for in paragraph 13.

15. Contamination or pollution of ground water

Every person abstracting ground water by means of a well shall, in order to prevent contamination or pollution of the water—
(a) effectively seal off to a sufficient depth any contaminated or polluted surface or shallow water in rock openings or soft broken ground;

(b) effectively seal the top of the well between the surface casing and the internal pump column, and the suction or discharge pipe;

(c) dispose of all return or waste water by means other than by return to the well;

(d) extend the well casing to a point not less than twenty centimetres above the elevation of the finished pump house or pump pit floor;

(e) use either welded or screw type well joints on the casing, if made of metal;

(f) dispose of effluents or drainage from any household, stable, factory, trade premises or other premises in such a manner as will prevent any such effluent or drainage from reaching such seal or ground water; and

(g) carry out such other work as the Board may by order direct, from time to time, for the prevention of contamination or pollution.

16. Board may special measure safeguard ground water resource

If—

(a) during the construction of a well, water is encountered in an aquifer; and

(b) water from a water table or lower aquifer tends to flow from the upper aquifer to the lower aquifer; and

(c) in the opinion of the Board this is likely to prove detrimental to the ground water resources of the area; the Board may order what special measures shall be taken by the owner of the well so that the water from the higher aquifer cannot flow to the lower aquifer.

17. Artesian wells cased

Every artesian well and every sub-artesian well shall be efficiently cased, capped or furnished with such
appliances as will readily and effectively arrest and prevent the flow therefrom over the surface of the ground or wasting from the well through the strata through which it passes.

18. Offence and penalty

(1) A person who neglects or fails to comply with any order or requirement given or imposed on him by or under this Schedule shall be guilty of an offence and liable on conviction to a penalty not exceeding one hundred thousand shillings.

(2) Liability of any person under this paragraph is in addition to any liability of the person under paragraph
MEMORANDUM OF OBJECTS AND REASONS

The bill is from the Committees on Water & Health Services and Trade, Industries & Resource Mobilization.

The objective of this Bill is to provide for the management of water resources in Murang’ a County, improve the lives of the citizens through the provision of adequate water and sewerage services, improve investment and efficiency of water services provision.

The county government shall be guided by the following principles in the management and administration of water

(a) water is a basic human need;

(b) water service providers have an obligation to provide efficient and adequate water services in a sustainable and environmentally friendly manner.

REASONS – Water services provision is a devolved function under the Fourth Schedule of the Constitution of Kenya, 2010.

Pursuant to the Fourth schedule of the Constitution the county public works and services include storm water management system and water and sanitation services.

In order to achieve the objects and purposes of this Act, it is the duty of the Murang’a county government to provide an enabling environment for water services provision and to further determine and promote the implementation of policies and measures in a manner designed to promote, support and enhance provision of water services.

ORIGIN – Committees on Water & Health Services and Trade, Industries & Resource Mobilization

CHARLES MWANGI KIRIGWI,
Chairman, Trade, Industries and Resource Mobilization.

BONIFACE NJIHIA,
Chairman, Water and Health Services.