

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO
WATER SERVICES BILL**

[B 65—97]

*(As agreed to by the Portfolio Committee on Agriculture, Water Affairs and Forestry
(National Assembly))*

[B 65A—97]

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**PORTEFEULJEKOMITEE-AMENDEMENTE
OP
WETSONTWERP OP
WATERDIENSTE**

[W 65—97]

*(Soos goedgekeur deur die Portefeuljekomitee oor Landbou, Waterwese en Bosbou
(Nasionale Vergadering))*

[W 65A—97]

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AMENDMENTS AGREED TO

WATER SERVICES BILL [B 65-97]

PREAMBLE

1. On page 2, in the first line of the first paragraph, to omit “right of all South Africans” and to substitute “rights of access”.
2. On page 2, in the second line of the first paragraph, to omit “afford them” and to substitute “ensure”,
3. On page 2, in the third line of the first paragraph, to omit “their”.
4. On page 2, after the third paragraph, to insert:

RECOGNISING that in striving to provide water supply services and sanitation services, all spheres of Government must observe and adhere to the principles of co-operative government;
5. On page 2, in the first line of the fourth paragraph, after “water” to insert “supply services and sanitation”.
6. On page 2, in the first line of the fifth paragraph, after “water” to insert “supply services and sanitation”.
7. On page 2, in the first line of the sixth paragraph, after “water” to insert “supply services and sanitation”.

CLAUSE 1

1. On page 8, in line 20, after “households” to insert “, including informal households”.
2. On page 8, in line 23, after “households” to insert:

, including informal households, to support life and personal hygiene
3. On page 8, in line 25, after “institution” to insert:

, including an end user in an informal settlement
4. On page 8, in line 27, after “services” to insert:

and includes a meter attached to such pipeline, fitting or apparatus

5. On page 8, in line 31, to omit “purification” and to insert “treatment”.
6. On page 8, after line 31, to insert the following definition:

“emergency situation” means any situation declared as such in terms of a law;
7. On page 8, in line 33, to omit “generation of electricity, transport and construction” and to substitute:

generating electricity, land-based transport, construction or any related purpose
8. On page 8, after line 34, to insert the following definition:

“organisation representing municipalities” means an organisation recognised under a law contemplated in section 163 of the Constitution as representing municipalities, or in the absence of such a law, any organisation or organisations considered by the Minister after consultation with the Minister for Provincial Affairs and Constitutional Development as representing municipalities, and includes an organisation representing district or rural councils as defined in the Local Government Transition Act, 1993 (Act No, 209 of 1993);
9. On page 8, in line 41, to omit “and sewage” and to substitute:

, sewage and effluent resulting from the use of water for commercial purposes
10. On page 8, after line 42, to insert the following definition:

(xvi) “Water board” means an organ of state established or regarded as having been established in terms of this Act to perform, as its primary activity, a public function;
11. On page 8, in line 44, after “municipality” to insert:

including a district or rural council as defined in the Local government Transition Act, 1993 (Act No. 209 of 1993),
12. On page 8, in line 52, after “consumers” to insert:

or to another water services institution
13. On page 10, in line 2, after “installation” to insert:

, purification work, sewage treatment plant, access road
14. On page 10, in line 4, to omit “to provide water services” and to substitute:

(i) to provide water services;
(ii) to provide water for industrial use; or
(iii) to dispose of industrial effluent;

CLAUSE 2

1. On page 10, from line 10, to omit paragraph (a) and to substitute:

(a) the right of access to basic water supply and the right to basic

sanitation necessary to secure sufficient water and an environment not harmful to human health or well-being;

2. On page 10, after line 25, to add:
 - (i) the accountability of water services providers; and
 - (j) the promotion of effective water resource management and conservation.

CLAUSE 3

1. On page 10, from line 28, to omit subsection (2) and to substitute:
 - (2) Every water services institution must take reasonable measures to realise these rights.
 - (3) Every water services authority must, in its water services development plan, provide for measures to realise these rights.
 - (4) The rights mentioned in this section are subject to the limitations contained in this Act.

CLAUSE 4

1. On page 10, in line 40, after “of” to insert “existing or proposed extensions of”.
2. On page 10, after line 44, to insert:
 - (v) procedures for limiting or discontinuing water services; and
 - (vi) measures to promote water conservation and demand management.
3. On page 10, from line 47, to omit “to be given except where” and to substitute:

and for an opportunity to make representations, unless
4. On page 10, after line 51, to insert:
 - (c) not result in a person being denied access to basic water services for non-payment, where that person proves, to the satisfaction of the relevant water services authority, that he or she is unable to pay for basic services.
5. On page 10, from line 54, to omit subsection (5) and to substitute:
 - (5) Where one water services institution provides water services to another water services institution, it may not limit or discontinue those services for reasons of non-payment, unless it has given at least 30 days’ notice in writing of its intention to limit water services or 60 days’ notice in writing of its intention to discontinue those water services to—
 - (a) the other water services institution;

- (b) the relevant Province; and
- (c) the Minister.

CLAUSE 5

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause to follow Clause 4:

Provision of basic water supply and basic sanitation to have preference

5. If the water services provided by a water services institution are unable to meet the requirements of all its existing consumers, it must give preference to the provision of basic water supply and basic sanitation to them.

CLAUSE 6

1. On page 12, from line 14, to omit subsection (2) and to substitute:

(2) A person who, at the commencement of this Act, was using water services from a source other than one nominated by the relevant water services authority, may continue to do so—

- (a) for a period of 60 days after the relevant water services authority has requested the person to apply for approval; and
- (b) if the person complies with a request in terms of paragraph (a) within the 60 day period, until—
 - (i) the application for approval is granted, after which the conditions of the approval will apply; or
 - (ii) the expiry of a reasonable period determined by the water services authority, if the application for approval is refused.

CLAUSE 7

1. On page 12, from line 28, to omit subsection (3) and to substitute:

(3) A person who, at the commencement of this Act, obtains water for industrial use or disposes of industrial effluent from a source *or* in a manner requiring the approval of a water services authority under subsection (1) or (2), may continue to do so—

- (a) for a period of 60 days after the relevant water services authority has requested the person to apply for approval; and
- (b) if the person complies with a request in terms of paragraph (a) within the 60 day period, until—
 - (i) the application for approval is granted, after which the conditions of the approval will apply; or
 - (ii) the expiry of a reasonable period determined by the water services authority, if the application for approval is refused.

2. On page 12, in line 37, to omit paragraph (a) and to substitute:

(a) the use and conservation of water and water resources; or

CLAUSE 8

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause to follow Clause 7:

Approvals and appeal

8. (1) A water services authority whose approval is required in terms of section 6 or 7—

(a) may not unreasonably withhold the approval; and

(b) may give the approval subject to reasonable conditions.

(2) A water services authority may require a person seeking approval to provide water services to others on reasonable terms, including terms relating to—

(a) payment for the services; and

(b) compensation for the cost of reticulation and any other costs incurred in providing the water service.

(3) In determining what is reasonable under subsections (1)(a), (1)(b) and (2), a water services authority—

(a) must consider the following factors, to the extent that the water services authority considers them to be relevant:

(i) The cost of providing;

(ii) the practicability of providing;

(iii) the quality of;

(iv) the reliability of;

(v) the financial, technological and managerial advisability of providing;

(vi) the economic and financial efficiency of; and

(vii) the socio-economic and conservation benefits that maybe achieved by providing,

the water services in question; and

(b) may consider any other relevant factor.

(4) A person who has made an application under section 6 or 7 may appeal to the Minister against any decision, including any condition imposed, by that water services authority in respect of the application.

(5) An appellant, under subsection (4), must note an appeal by lodging a written notice of appeal with—

(a) the Minister; and

(b) the person against whose decision the appeal is made, within 21 days of the appellant becoming aware of the decision.

(6) A person who has made an application under section 6 or 7 may appeal to the Minister if the water services authority in question fails to take a decision on the application within a reasonable time.

(7) An appeal under subsection (6)—

(a) must be conducted as if the application had been refused; and

(b) must be noted by lodging a written notice of appeal with the Minister and the water services authority in question.

(8) A relevant Province may intervene as a party in an appeal under subsection (4) or (6).

(9) The Minister may on appeal confirm, vary or overturn any decision of the water services authority concerned,

(10) The Minister may prescribe the procedure for conducting an appeal under this section.

CLAUSE 9

1. On page 14, in line 15, after “(a)” to insert “the provision of”.
2. On page 14, in line 16, after “any” to insert “water services or water resource”.
3. On page 14, in line 20, to omit paragraph (e) and to substitute:

(e) requirements for persons who install and operate water services works; and
4. On page 14, in line 21, to omit “design, standards and quality” and to substitute “construction and functioning”.
5. On page 14, in line 23, to omit paragraph (g).
6. On page 14, from line 24, to omit subsection (2) and to substitute:

(2) The standards prescribed under subsection (1) may differentiate between—

 - (a) different users of water services; and
 - (b) different geographic areas, taking into account, among other factors, the socio-economic and physical attributes of each area.
7. On page 14, in line 31, to omit paragraph (d) and to substitute:

(d) any norms and standards for applicable tariffs for water services;
8. On page 14, from line 36, to omit subsection (4) and to substitute:

(4) Every water services institution must comply with the standards prescribed under subsection (1).

CLAUSE 10

1. On page 14, from line 41, to omit subsection (2) and to substitute:

(2) These norms and standards may—

 - (a) differentiate on an equitable basis between—
 - (i) different users of water services;
 - (ii) different types of water services; and

- (iii) different geographic areas, taking into account, among other factors, the socio-economic and physical attributes of each area;
 - (b) place limitations on surplus or profit;
 - (c) place limitations on the use of income generated by the recovery of charges; and
 - (d) enable differentiation in their use for water conservation purposes.
2. On page 14, in line 45, after “consider” to insert “among other factors”.
 3. On page 14, in line 52, after “invested” to insert “for the provision of water services”.
 4. On page 14, after line 52, to insert:
 - (g) the need to provide for drought and excess water availability.

CLAUSE 11

1. On page 16, in line 20, after “account” to insert “among other factors”.
2. On page 16, after line 25, to insert:
 - (f) the availability of resources from neighboring water services authorities.
4. On page 16, from line 28, to omit subsection (5) and to substitute:
 - (5) In emergency situations a water services authority must take reasonable steps to provide basic water supply and basic sanitation services to any person within its area of jurisdiction and may do so at the cost of that authority.

CLAUSE 12

Clause rejected.

CLAUSE 13

1. On page 16, from line 37, to omit subsection (1) and to substitute:
 - (1) Every water services authority must, within one year after the commencement of this Act—
 - (a) as part of the process of preparing any integrated development plan in terms of the Local Government Transition Act, 1993 (Act No. 209 of 1993); or
 - (b) separately, if no process contemplated in paragraph (a) has been initiated, prepare—
 - (i) a draft water services development plan for its area of jurisdiction; and
 - (ii) a summary of that plan.

CLAUSE 14

1. In the English text, on page 16, in line 50, to omit “next” and to substitute “following”.
2. On page 16, in line 51, to omit all the words after “services” up to and including “sanitation” in line 53.
3. *On* page 16, after line 53, to insert:
 - (e) of existing industrial water use within the area of jurisdiction of the relevant water services authority;
 - (f) of existing industrial effluent disposed of within the area of jurisdiction of the relevant water services authority;
 - (g) of the number and location of persons within the area who are not being provided with a basic water supply and basic sanitation;
4. On page 18, in line 1, after “services” to insert:

and water for industrial use and the future disposal of industrial effluent
5. On page 18, in line 8, to omit “to fund” and to insert “for funding”.
6. On page 18, after line 9, to insert:
 - (vi) any water services institution that will assist the water services authority;
 - (vii) the operation; maintenance, repair and replacement of existing and future infrastructure;
7. On page 18, in line 15, after “conservation” to insert:

, recycling and environmental protection

CLAUSE 15

1. On page 18, in line 16, to omit “Notice of”.
2. **On** page 18, in line 19, after “consumers” to insert:

industrial users and water services institutions within its area of jurisdiction
3. On page 18, in line 20, to omit “written”.
4. On page 18, from line 22, to omit “and of all comments received thereon”.
5. On page 18, in line 25, to omit “and of its summary” and to substitute:

, a copy of its summary, all written comments and a report on all comments other than written comments

CLAUSE 16

1. On page 18, from line 31, to omit subsection (2) and to substitute:

(2) A water services authority must, on request, report on the extent to which a specific comment has been taken into account or, if a comment was not taken into account, provide reasons therefor.
2. On page 18, in line 39, to omit “(c)” and to substitute:

(5) A water services development plan
3. On page 18, from line 39, to omit “as delined in and required by” and to substitute “contemplated in”.

CLAUSE 17

1. On page 18, in line 42, after “must” to insert “prepare and”.
2. On page 18, in line 44, to omit “and the relevant Province”.

CLAUSE 19

1. On page 20, from line 7, to omit “all neighboring water services authorities” and to substitute:

every organisation representing municipalities having jurisdiction in the area of the water services authority

CLAUSE 20

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause to follow Clause 19:

Contracts and joint ventures with water services providers

20. (1) A water services authority—
 - (a) may perform the functions of a water services provider itself;
and
 - (b) may—
 - (i) enter into a written contract with a water services provider;
or
 - (ii) form a joint venture with another water services institution, to provide water services.
- (2) A water services authority may only enter into a contract with

a private sector water services provider after it has considered all known public sector water services providers which are willing and able to perform the relevant functions.

(3) Before entering into or renewing—

(a) a contract with a water services provider; or
 (b) a joint venture with another water services institution other than a public sector water services institution which will provide services within the joint venture at cost and without profit,
 the water services authority must publicly disclose its intention to do so.

(4) Any water services provider entering into a contract or joint venture with a water services authority, must, before entering into such a contract or joint venture, disclose and provide information on—

(u) any other interests it may have, which are ancillary to or associated with the relevant water services authority; and
 (b) any rate of return on investment it will or may gain by entering into such a contract or joint venture.

(5) The Minister may, after consultation with the Minister for Provincial Affairs and Constitutional Development, prescribe—

(a) matters which must be regulated by a contract between a water services provider and a water services authority;
 (b) compulsory provisions to be included in such a contract; and
 (c) requirements for a joint venture between a water services authority and a water services institution,
 to ensure—

(i) that water services are provided on an efficient, equitable, cost-effective and sustainable basis;
 (ii) that the terms of the contract are fair and equitable to the water services authority, the water services provider and the consumer; and
 (iii) compliance with this Act.

(6) As soon as such a contractor joint venture agreement has been concluded, the water services authority must supply a copy thereof to the relevant Province and to the Minister.

(7) The Minister may provide model contracts to be used as a guide for contracts between water services authorities and water services providers.

CLAUSE 22

1. On page 20, from line 47, to omit paragraph (b) and to substitute:

(b) the technical conditions of supply, including quality standards, units or standards of measurement, the verification of meters, acceptable limits of error and procedures for the arbitration of disputes relating to the measurement of water services provided;

2. On page 20, in line 52, after “tariffs” to insert “in accordance with section 10”.

3. On page 22, in line 3, 10 omit “or” and to substitute:

connections to water services works and the

4. On page 22, from line 16, to omit subparagraph (iii).
5. On page 22, after line 16, to insert:
 - (d) may require a payment defaulter to pay a higher tariff for water services, where that defaulter gains access to water services through a communal water services work and the provision thereof cannot be disconnected or limited without other consumers being prejudiced;
 - (e) may provide for the general limitation or discontinuation of water services where—
 - (i) national disasters cause disruptions in the provision of services; or
 - (ii) sufficient water is not available for any other reason;
6. On page 22, after line 20, to insert:
 - (3) A water services authority which—
 - (a) provides water for industrial use; or
 - (b) controls a system through which industrial effluent is disposed of, must make bylaws providing for at least—
 - (i) the standards of service;
 - (ii) the technical conditions of provision and disposal;
 - (iii) the determination and structure of tariffs;
 - (iv) the payment and collection of money due; and
 - (v) the circumstances under which the provision or disposal may be limited or prohibited.

CLAUSE 23

1. On page 22, *in* line 30, to omit paragraph (b).
2. On page 22, in line 34, after “notice” to insert:

, which notice must not be longer than one year,

CLAUSE 26

1. On page 24, in line 1, after “any” to insert “additional”.
2. On page 24, in line 4, to omit “determined under this Act” and to substitute:

prescribed under this Act and any additional norms and standards set by the relevant water services authority

CLAUSE 27

1. On page 24, in line 12, to omit “the” and to substitute “a reasonable”.
2. On page 24, in line 27, to omit “a” and to substitute “another”.
3. On page 24, after line 36, to insert:

(8) The procedure set out in subsection (3) need not be followed in an emergency situation.

NEW CLAUSE

1. That the following be a new Clause to follow Clause 27:

Monitoring performance of water services providers and water services intermediaries

28. Every water services authority must monitor the performance of water services providers and water services intermediaries within its area of jurisdiction to ensure that—

- (a) standards and norms and standards for tariffs prescribed under sections 9 and 10 are complied with;
- (b) any condition set by a water services authority under sections 6, 7 and 23 is met;
- (c) any additional standards set by a water services authority for water services intermediaries are complied with; and
- (d) any contract is adhered to.

CLAUSE 28

1. On page 24, in line 40, to omit “The” and to substitute:
 - (1) Subject to subsection (2), the
2. On page 24, in line 42, after “or” to insert “approve a”.
3. On page 24, from line 45, to omit all the words after *Gazette* up to the end of the Clause.
4. on page 24, alter line 45, to insert:
 - (2) The Minister may only act in terms of subsection (1) after consultation with—
 - (a) every Province concerned;
 - (b) the water board concerned, if in existence; and
 - (c) every water *services* authority having jurisdiction in the service area or proposed service area.
 - (3) The Minister must, when acting in terms of subsection (1)(d), have regard to the interests of consumers and creditors.
 - (4) The Minister must, from time to time, review the provision of water services and make recommendations to Parliament on the establishment, functions and disestablishment of water boards.

CLAUSE 30

1. On page 26, in line 3, to omit “will not” and to substitute “is not likely to”.
2. On page 26, in line 4, to omit “will not” and to substitute “is not likely to”.
3. On page 26, in line 10, to omit “authorities” and to substitute:

institutions, in *order 10* promote co-operation in the provision of water services
4. On page 26, in line 19, after “provider” to insert “to consumers”.

5. On page 26, after line 19, to insert:
 - (e) providing water services in a joint venture with water services authorities;
 - (f) performing water conservation functions.

CLAUSE 3 I

1. On page 26, from line 24, to omit “or the board’s policy statement or business plan”.
2. On page 26, from line 26, to omit subsection (2) and to substitute:
 - (2) A water board may—
 - (a) perform its primary activity and the other activities contemplated in section 30;
 - (b) set and enforce general conditions, including tariffs, for the provision of water services;
 - (c) determine the procedure for convening and conducting meetings of its board;
 - (d) do all things necessary for or in connection with or incidental to the performance of its activities in a manner consistent with this Act; and
 - (e) enter into contracts with any person in terms of which that person undertakes and is authorised to exercise any of the powers or to perform any of the duties of the water board, provided that a water board may not by contract make over to another person its power to set general conditions, including tariffs, for the provision of water services.
3. On page 26, in line 30, to omit subsection (4) and to substitute:
 - (4) A water board may establish—
 - (a) advisory forums; and
 - (b) committees consisting of board members or any other persons, and determine how they must function.
 - (5) The quorum for any meeting of a water board is one half of its members.

CLAUSE 33

1. On page 26, in line 48, after “including” to insert “demand patterns, water storage,”.
2. On page 28, in line 5, after “(f)” to insert “water conservation and”.
3. On page 28, from line 7, to omit subsections (2) and (3) and to substitute:
 - (2) Conditions may be set generally or agreed specifically.
 - (3) Before setting general conditions a water board must invite comment from water services institutions within its service area, its consumers and users.
4. On page 28, in line 10, after “(4)” to insert “General”.

5. On page 28, in line 12, after “applicable” to insert “general”.

6. On page 28, in line 12, after “board” to insert:

. unless specifically agreed otherwise

CLAUSE 34

Clause rejected.

NEW CLAUSE

I. That the following be a new Clause to follow Clause 33:

Parameters for functions of water boards

34. (1) In performing its activities, exercising its powers and carrying out its duties a water board must achieve a balance between—

- (a) striving to provide efficient, reliable and sustainable water services;
- (b) optimally using available resources;
- (c) striving to be financially viable;
- (d) promoting the efficiency of water services authorities;
- (e) taking cognisance of the needs of water services institutions, consumers and users;
- (f) taking into account national and provincial policies, objects and developments;
- (g) acting in an equitable, transparent and fair manner;
- (h) complying with health and environmental policies; and
- (i) taking reasonable measures to promote water conservation and water demand management, including promoting public awareness of these matters.

(2) For the purpose of subsection (1)(c) a water board is financially viable if it is able to—

- (a) repay and service its debts;
- (b) recover its capital, operational and maintenance costs;
- (c) make reasonable provision for depreciation of assets;
- (d) recover the costs associated with the repayment of capital from revenues (including subsidies) over time; and
- (e) make reasonable provision for future capital requirements and expansion.

CLAUSE 35

1. On page 28, in line 31, to omit “detcl-mine” and to substitute “appoint”.

2. On page 28, in line 32, to omit subsection (2) and to substitute:

(2) Schedule I regulates the terms of office of board members, the procedure for the recommendation of persons for appointment as chairperson or board members and the termination of office of board members.

3. On page 28, from line 35, 10 omit paragraph (b) and to substitute:

- (b) the need for the board to be representative of—
- (i) the water services authorities to which it provides water services;
 - (ii) the other interests served by the water board; and
 - (iii) the broad population; . .

4. On page 28, after line 39, to insert:

(4) The extent to which relevant water services authorities should be represented on a water board must be determined by the Minister after consultation with every relevant organisation representing municipalities having jurisdiction in the service area.

5. On page 28, in line 42, after “(5)” to insert “Non-executive”.

6. On page 28, in line 42, after the second “board” to insert:

for carrying out their duties as board members

CLAUSE 36

1. On page 28, in line 47, to omit “of not more than five years”.

2. On page 28, after line 49, to insert:

(2) A water board must determine the salary of its chief executive, subject to the approval of the Minister.

3. On page 28, from line 51, to omit “of its own accord, or the Minister may, after consultation with the board.”.

CLAUSE 38

1. On page 30, in line 12, to omit paragraph (b) and to substitute:

(b) promote its policy statement and its business plan and ensure that they are implemented.

2. On page 30, in line 15, to omit paragraph (b) and to substitute:

(b) disclose any interest in contracts or dealings of the water board and must abstain from voting on any resolution proposed in connection with such contracts or dealings.

CLAUSE 39

1. On page 30, from line 18, to omit subsection (2) and to substitute:

(2) The first policy statement of a water board must be prepared and adopted within one year after—

- (a) the commencement of this Act; or
- (b) the establishment of that water board.

2. On page 30, in line 32, after “environment” to insert:

, including measures to reduce water wastage to an acceptable level

3. On page 30, after line 40, to insert:
 - (m) the measures, including public awareness campaigns, to be taken to promote water conservation and water demand management; and
4. On page 30, in line 41, after “other” to insert “relevant”.
5. On page 30, from line 44, to omit subsection (5) and to substitute:
 - (5) Every policy statement and every amendment thereof must—
 - (a) be submitted to the Minister, the relevant Province and all water services institutions within the water board’s service area; and
 - (b) be accessible to the public.

CLAUSE 40

- I. On page 32, after line 8, to insert:
 - (3) A water board may, with the approval of the Minister, exclude commercially sensitive information from its business plan.

CLAUSE 41

1. On page 32, in line 21, after “cost” to insert:

where the activity is financially viable
2. On page 32, in line 23, after “activity” to insert:

if that activity—

 - (i) is not in the best interests of the general population within its service area; or
 - (ii) is not in accordance with the parameters laid down in section 34(1).

CLAUSE 43

1. On page 32, in line 34, to omit “1 April to 31 March” and to substitute “1 July to 30 June”.
2. On page 32, in line 37, to omit “three” and to substitute “four”.

CLAUSE 44

1. On page 32, in line 42, to omit “three” and to substitute “four”.
2. On page 32, in line 47, after “Minister” to insert “any relevant Province and Parliament”.
3. On page 32, from line 49, to omit subsection (3) and to substitute:
 - (3) The report must contain sufficient information to allow—

- (a) there was a casual vacancy on the board; or
 - (b) a person not entitled to sit as a member of the board sat as a member,
- if—
- (i) the decision was taken or act was authorised by a majority of board members who were present and who were entitled to sit as members; and
 - (ii) the members contemplated in subparagraph (i) constituted a quorum.

CLAUSE 49

1. On page 34, from line 48, to omit subsection (1) and to substitute:
 - (1) The Minister may make regulations relating to-
 - (a) the matters to be dealt with in policy statements of a water board;
 - (b) the matters to be dealt with in the annual business plan of a water board;
 - (c) the information to be supplied in the financial statements of a water board;
 - (d) the information to be supplied in the annual report of a water board; and
 - (e) any other matter relating to the functioning of a water board and to the exercise of its powers which the Minister may consider advisable to ensure a water board's efficiency and to promote good order.

CLAUSE 51

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause to follow Clause 50:

Establishment and disestablishment of water services committees

- 51. (1)** Subject to subsections (2), (3) and (4) the Minister may—
- (a) establish a water services committee;
 - (b) give it a name or approve a change of its name;
 - (c) determine or change its service area;
 - (d) determine its powers; or
 - (e) disestablish it,
- by notice in the *Gazette*.
- (2) The Minister may only act in terms of subsection (1)—
- (a) after consultation with either the inhabitants of the proposed service area or with the established water services committee for that area; and
 - (b) in consultation with the water services authority for the area in question, the Minister for Provincial Affairs and Constitutional Development and the relevant Province,
- with regard to—
- (i) the period for which the water services committee will operate;

- (ii) the nature and extent of the water services to be provided;
- (iii) the area or the community to be served; ‘
- (iv) the composition of the water services committee and the appointment of its members;
- (v) any contribution to be made by the community or its members to the provision of water services; and
- (vi) any other related matter.

(3) No water services committee may be established if the water services authority having jurisdiction in the area in question is able to provide water services effectively in the proposed service area.

(4) The Minister must, after consultation with the water services committee and the inhabitants of the area—

(a) h i m s e l f o r h e r s e l f; o r

(b) at the request of the water services authority having jurisdiction in the area concerned,

disestablish a water services committee once he or she is satisfied that the relevant water services authority is able to provide water services effectively within the service area.

CLAUSE 52

1. On page 38, in line 5, to omit “main”.

CLAUSE 53

1. On page 38, in line 15, after “tariffs” to insert “consistent with this Act”.
2. On page 38, in line 19, to omit the second “any” and to substitute “a competent”.

CLAUSE 55

1. On page 38, in line 45, after “committee” to insert:

after taking into account any nominations made by members of the community served or to be served by the committee
2. On page 38, in line 51, after “committee” to insert:

after consultation with the members of the community served by that committee
3. On page 38, in line 53, after “Minister” to insert:

with the concurrence of the Minister of Finance
4. On page 38, after line 53, to insert:

(6)(a) A water services committee must, draw up and adopt a constitution, which provides for the day to day functioning of the committee.

(b) A constitution adopted by a water services committee must be consistent with any regulations made in terms of section 61.

(7) The Minister may provide model constitutions to be used as a guide for water services committees.

CLAUSE 57

1. On page 40, in line 6, to omit "1 April to 31 March" and to substitute "1 July to 30 June".

C L A U S E 5 8

Clause rejected.

N E W C L A U S E

1. That the following be a new Clause to follow Clause 57:

Formal irregularities

58. A decision taken or act authorised by a water services committee is not invalid merely because, at the time the decision was taken or the act was authorised—

(a) there was a casual vacancy on the committee; or

(b) a person not entitled to sit as a member of the committee sat as a member, if—

(i) the decision was taken or act was authorised by a majority of committee members who were present and who were entitled to sit as members; and

(ii) the members contemplated in subparagraph (i) constituted a quorum.

CLAUSE 59

1. On page 40, in line 30, after "Minister" to insert "or a water services authority".
2. On page 40, after line 33, to insert:

(4) Any investigation undertaken by a water services authority under subsection (2), is undertaken at the cost of that water services authority.

(5) A water services committee must, on request, provide information on its affairs and financial position to any person, subject to the limitations necessitated by the rights enshrined in Chapter 2 of the Constitution.

CLAUSE 60

1. On page 40, in line 41, after "authority" to insert "or a water hoard".
2. On page 40, in line 42, after "(3)" to insert:

Subject to the approval of the Minister of Finance,

3. On page 40, in line 42, to omit “value-added tax”.
4. On page 40, in line 45, after “authority” to insert “or a water board”,

CLAUSE 61

1. On page 42, in line 7, after “committee” to insert:
with the concurrence of the Minister of Finance

CLAUSE 62

1. On page 42, in line 22, after “Minister” to insert “and any relevant Province”.

CLAUSE 63

1. On page 42, after line 39, to omit subsections (2) and (3) and to substitute:
 - (2) If, within a reasonable time after the request, the Province—
 - (a) has unjustifiably failed to intervene; or
 - (b) has intervened but has failed to do so effectively,
 the Minister may assume responsibility for that function to the extent necessary—
 - (i) to maintain essential national standards;
 - (ii) to meet established minimum standards for providing services;
 - or
 - (iii) to prevent that Province from taking unreasonable action that is prejudicial to the interests of another province or the country as a whole.
 - (3) If the Minister assumes responsibility for any function of a water services authority in terms of subsection (2)—
 - (a) the Minister must table a notice to that effect in the National Council of Provinces within 14 days of the commencement of its first sitting after the Minister has assumed responsibility for that function;
 - (b) the assumption of responsibility for that function must end if it is not approved by the National Council of Provinces within 30 days after the commencement of its first sitting after the Minister has assumed responsibility for that function; and
 - (c) the National Council of Provinces must regularly review that assumption of responsibility and make appropriate recommendations to the Minister.

CLAUSE 64

1. On page 44, in line 34, after “may” to insert:
after consultation with any relevant Province
2. On page 44, in line 39, to omit “for those purposes”.

CLAUSE 65

1. On page 44, in line 47, after “may” to insert “on reasonable grounds”.

CLAUSE 67

1. On page 46, after line 19, to insert:
 - (4) The Minister must take reasonable steps to ensure that information provided is in an accessible format.

CLAUSE 70

1. On page 46, in line 33, after “fund” to insert:

reasonable expenditure incurred in establishing and maintaining

CLAUSE 71

1. On page 46, in line 42, to omit “written”.
2. On page 46, after line 43, to insert:
 - (b) send copies of and invite comment on the draft regulations from—
 - (i) the Minister for Provincial Affairs and Constitutional Development;
 - (ii) any relevant Province;
 - (iii) any relevant organisation representing municipalities; and
 - (iv) any relevant water board;
3. On page 46, in line 44, to omit “written”.
4. On page 46, after line 44, to insert:
 - (d) on request, report on the extent to which a specific comment or comments have been taken into account, or, if a comment was not taken into account, provide reasons therefor; and
 - (e) submit the draft regulations together with any amendments thereon to the Regulation Review Committee established by section 75, for consideration.

CLAUSE 73

1. On page 48, in line 8, to omit “owner” and to insert “the relevant water services institution”.
2. On page 48, in line 11, after “approval” to insert:

only if the relevant water services authority is unable to provide the water services
3. On page 48, in line 22, after “Act” to insert “or any other law”.

4. On page 48, from line 24, to omit subsection (2) and to substitute:

- (2) No water services work owned by the Minister may be transferred or disposed of—
- (a) without the approval of Parliament if its value exceeds an amount specified by notice in the *Gazette* from time to time by the Minister with the concurrence of the Minister of Finance; or
 - (b) without prior consultation with all affected water services institutions, if its value is within the specified amount.

CLAUSE 74

1. On page 48, after line 34, to insert:

- (b) to issue directions under section 41;
- (c) to intervene under section 63;
- (d) to appoint members of a water board;

CLAUSE 75

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause to follow Clause 74:

Regulation Review Committee

75. (1) There is hereby established a committee called the Regulation Review Committee.

(2) The role of the committee is to scrutinise all draft regulations submitted to it by the Minister in terms of section 71.

(3) The Committee shall be funded as if it were a parliamentary committee.

(4) The Committee consists of 15 members, of whom— .:

- (a) 10 must be members of the portfolio committee of the National Assembly responsible for water affairs and must be appointed by the Speaker and Deputy Speaker of the National Assembly; and,
- (b) five must be members of the National Council of Provinces appointed by the Chairperson and Deputy Chairperson of the National Council of Provinces in consultation with the chairperson of the “select committee of the National Council of Provinces responsible for water affairs, two of whom must be chosen from representatives designated by the national organisation representing municipalities.

(5) The members contemplated in subsection (4)(a) must include representatives of parties represented in the relevant House in a manner consistent with democracy.

(6) A vacancy in the Committee must be filled in accordance with subsections (4) and (5).

(7) The Committee must—

- (a) elect its chairperson; and
- (b) determine its rules and procedures.

(8) The majority of the members of the Committee 'constitutes a quorum for a meeting of the Committee.

(9) A decision of the Committee is taken by a majority of the members present.

(1 O) The Committee may request the presence of any person at a meeting and may invite such person to take part in the meeting.

NEW CLAUSE

1. That the following be a new Clause to follow Clause 75:

Scrutinizing of draft regulations

76. (1) In scrutinizing a draft regulation submitted to it the Regulation Review Committee must consider whether the regulation—

(a) is consistent with the objectives of this Act;

(b) is within the powers conferred by this Act;

(c) is consistent with the Constitution; and

(d) requires clarification.

(2) The Committee must, within 21 days after receiving the draft regulation from the Minister, either approve or reject the draft regulation.

(3) If the Committee rejects a draft regulation it must state its reasons.

(4) If the Committee has not made a decision **within** 21 days from the date of receipt of a draft regulation, the regulation is regarded as having been approved by the Committee.

(5) The Minister may not promulgate a draft regulation rejected by the Committee.

(6) The Minister may, as a matter of urgency, when necessary to avoid injury, loss of life or substantial damage to property, promulgate a regulation without complying with section 71.

(7) The Minister must, within 21 days after promulgation of a regulation contemplated in subsection (6), furnish the Committee with—

(a) a copy of the regulation; and

(b) a statement explaining the purpose of the regulation and the necessity for the urgency.

(8) The Committee may, within 21 days from the receipt of the regulation, in writing require the Minister to repeal any regulation made in terms of subsection (6) and, if so required, the Minister must repeal or amend it within 21 days after receiving notice to do so.

NEW CLAUSE

1. That the following be a new Clause to follow Clause 77:

Compliance with other laws

78. No approval given under this Act and nothing in this Act relieves anyone from complying with any other law relating to—

(a) the abstraction and use of water; or

(b) the disposal of effluent.

CLAUSE 79

- 1. On page 50, after line 45, to insert:

(iv) search, excavate, bore or carry on any activity necessary for the recovery or measurement of water; and

CLAUSE 80

- 1. On page 52, in line 7, before approval, to insert “written”,

CLAUSE 81

- 1. On page 52, in line 32, to omit “for a period not exceeding two years”.

CLAUSE 83

- 1. On page 52, from line 44, to omit subsection (1) and to substitute:

(1) The laws set out in Schedule 2 are hereby repealed to the extent set out in the third column of that Schedule.

NEW SCHEDULE

- 1. That the following be a new Schedule 1:

SCHEDULE 1

WATER BOARDS

1. Terms of office of board members'

(1) A member of a water board is appointed for's period of office determined by the Minister, which may not exceed four years.

(2) A member of a water board may be reappointed. Re-appointment is limited to three consecutive terms of office.

2. Disqualification of board members

No person may hold office as a 'water board—

- (a) if he or she is an unrehabilitated insolvent; or
- (b) if he or she. has been convicted, of any offence involving dishonesty or has been sentenced to imprisonment without the option of a fine. A disqualification under this subitem ends three years after the sentence has been served.

3. Procedure for nomination and appointment of board members

(1) The Minister may require a water board to constitute a selection panel to recommend persons for appointment as members of a waferboard.

(2) If the Minister has done so the chief executive of a water board must publish a notice calling for nominations in two media of his or her choice, generally accessed within the water board's service area.

(3) A notice must set out, in general terms, at least—

- (a) the service area of the water board;
- (b) the activities of the water board;
- (c) the time commitments reasonably expected from water board members;
- (d) the term of office for which the appointments are considered;
- (e) the criteria for disqualification as a member;
- (f) the requirements with which a nomination must comply;
- (g) the closing date for nominations; and
- (h) the address to which nominations must be delivered.

(4) A copy of the notice must be sent to at least—

- (a) every Province within which the whole or any portion of its service area is situated;
- (b) every organisation representing municipalities having jurisdiction in the service area;
- (c) every other person having a substantial interest in the matter, whom the chief executive of the water board considers ought to be consulted;
- (d) every water services authority having jurisdiction in the service area.

(5) Every nomination of a person for appointment to a water board must be signed by a proposer and a seconder, none of whom may be the nominee, and must contain the nominee's signed acceptance. No person may nominate or second more than one person.

(6) A water board must timeously constitute a selection panel, having regard to race and gender, to make recommendations from nominations received, to the Minister for appointment.

(7) The selection panel must consist of—

- (a) the chief executive of the board or his or her representative;
- (b) a person representing every relevant Province, to be nominated by the Province concerned;
- (c) a person representing the Minister, to be nominated by the Minister;
- (d) a person of repute and good standing, residing within the service area, to be nominated by the water board.

(8) The selection panel—

- (a) must consider all nominations timeously received and sufficiently completed;
- (b) may prepare a shortlist of nominees;
- (c) may interview all shortlisted nominees; and
- (d) must, through the chief executive of the water board, make recommendations to the Minister on the appointment of members of the water board.

(9) In recommending nominees for appointment the selection panel must consider—

- (a) the criteria set out in section 35(4) of the Act;
- (b) the reputation and integrity of the nominees; and
- (c) any conflict of interests which the nominees may have.

(10) The selection panel—

- (a) must, where there are sufficient suitable candidates, recommend more nominees than the number of members which the Minister may wish to appoint;
- (b) must motivate each recommendation made; and
- (c) may arrange recommendations in order of preference.

(11) If the chairperson of a water board has to be appointed, the selection panel must, if there are sufficient suitable candidates—

- (a) recommend at least three persons for the position;
- (b) motivate each recommendation; and
- (c) arrange the recommendations in order of preference.

(12) The Minister must, before appointing a person to be a member of a water board, consider any recommendations made by a selection panel.

(13) All costs—

- (a) relating to the publication of notices; and “ , ‘
 - (b) incurred by the selection panel,
- are for the account of the water board concerned.

4. Termination of office of board members

- (1) A member of a water board ceases to hold office—
 - (a) from the effective date of his or her resignation; ,
 - (b) if he or she has been absent from more than two consecutive meetings without leave of, the chairperson, Leave may be granted retrospectively, if the absence of a member was due to unforeseen circumstances ;,,
 - (c) if he or she has become disqualified in terms of item 2 of this Schedule;
 - (d) if he or she has been declared to be of unsound mind by a competent authority; or
 - (e) if his or her appointment has been terminated in terms of section 35(6) of the Act.
- (2) A member who is not the chairperson,, must notify the chairperson in writing of his or her resignation,
- (3) A member who is the chairperson, must notify the Minister in writing of his or her resignation.

SCHEDULE

1. On page 56, in the heading, after “Schedule” to insert “2”,
2. On page 56, in the second line of the third column, after “130” to insert “and 139”.

LONG TITLE

1. On page 2, in the first line, to omit “right” and to substitute “rights”.