

# **CHAPTER 9.03**

## **WATER AND SEWERAGE ACT**

### **Revised Edition**

Showing the law as at 31 December 2020

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

---

• Act • Subsidiary Legislation •

---

### **ACT**

#### **(Acts 14 of 2005 and 13 of 2008)**

Act 14 of 2005 .. in force 15 May 2006 (S.I. 40/2006)

Amended by Act 13 of 2008 .. in force 20 October 2008

Amended by Act 3 of 2016 .. in force 16 December 2015

### **ARRANGEMENT OF SECTIONS**

#### **PART 1 PRELIMINARY**

1. Short title
2. Interpretation

#### **PART 2 WATER RESOURCE MANAGEMENT**

##### *Division 1*

##### *Water Resource Management Agency*

3. Establishment of Agency
4. Functions and powers of the Agency
5. Revenue of Agency

##### *Division 2*

##### *Crown Rights in Water, Protection of Water and Gathering Grounds*

6. Crown rights in water
7. Protection of water
8. Gathering grounds
9. Protection of defined area around gathering grounds

##### *Division 3*

##### *Emergencies*

10. Water-related emergencies

##### *Division 4*

##### *Abstraction of Water*

11. Private use of water
12. Requirement for abstraction licence
13. Abstraction licence as of right
14. Application for abstraction licence
15. Recommendation by Agency
16. Grant or refusal of abstraction licence
17. No recommendation or notice

- 18. Issuance and form of abstraction licence
- 19. Validity of abstraction licence
- 20. Breaches by abstraction licensee
- 21. Suspension or revocation of abstraction licence
- 22. Offence of not complying with direction of Agency for abstraction licence

#### *Division 5*

#### *Water and Waste Control Areas and Permits*

- 23. Water control area
- 24. Waste control area
- 25. Requirement for permit
- 26. Permit as of right
- 27. Application for permit
- 28. Recommendation by Agency for permit
- 29. Grant or refusal of permit
- 30. No recommendation or notice for permit
- 31. Issuance and form of permit
- 32. Validity of permit
- 33. Breaches by permit holder
- 34. Suspension or revocation of permit
- 35. Offence of not complying with direction of Agency for permit

### **PART 3**

### **WATER SUPPLY AND SEWERAGE SERVICES**

#### *Division 1*

#### *Commission*

- 36. Establishment of Commission
- 37. Functions and powers and exemption from liability of Commission
- 38. Commission to regulate own procedure
- 39. Seal
- 40. Executive Director
- 41. Meetings of Board
- 42. Quorum
- 43. Voting
- 44. Confidentiality
- 45. Declaration of interest and abstention from voting
- 46. Terms of appointment
- 47. Revocation
- 48. Resignation
- 49. Vacation
- 50. Decisions not invalidated
- 51. Staff
- 52. Remuneration
- 53. Fund for use by Commission
- 54. Financial year of Commission
- 55. Budget and plan of action of Commission
- 56. Accounts of Commission
- 57. Audit of Commission
- 58. Auditor's report of Commission
- 59. Annual report of Commission

#### *Division 2*

#### *Service Licence*

- 60. Requirement for service licence
- 61. Application for service licence
- 62. Recommendation by Commission for service licence
- 63. Grant or refusal of service licence
- 64. No notice of grant or refusal for service licence
- 65. Issuance and form of service licence
- 66. Validity of service licence

#### *Division 3*

#### *Service Licensee*

- 67. Obligations of service licensee
- 68. Rights and powers of service licensee
- 69. Sub-contracting
- 70. Budget and plan of action of service licensee
- 71. Accounts of service licensee
- 72. Audit of service licensee
- 73. Auditor's report of service licensee
- 74. Annual report of service licensee
- 75. Standards

*Division 4  
Customer*

- 76. Rights of customer
- 77. Obligations of customer

*Division 5*

*Tariff Scheme, Tariff, Tariff Review, Subsidies and Levy*

- 78. Tariff scheme and tariff
- 79. Types of reviews
- 80. Annual tariff review
- 81. Triennial tariff review
- 82. Extraordinary tariff review
- 83. Direct subsidy
- 84. Cross subsidy
- 85. Levy

*Division 6*

*Breaches, Offences and Penalties*

- 86. Breach relating to minimum standards of potable water
- 87. Breaches by the service licensee
- 88. Remedial action, suspension or revocation of service licence
- 89. Offence of not complying with direction of Commission
- 90. Offences in respect of water supply and sewerage service
- 91. Offences of obstructing service licensee
- 92. Criminal liability for damage and wrongful service connection

**PART 4  
MISCELLANEOUS**

- 93. Matters excluded from arbitration
  - 94. Matters to be submitted to arbitration
  - 95. Arbitrator and applicable law
  - 96. Appeal
  - 97. Regulations
  - 98. Act binds the Crown
  - 99. Savings
- Schedule

---

**CHAPTER 9.03  
WATER AND SEWERAGE ACT**

AN ACT to provide for the management of water resources and to regulate the delivery of water supply services and sewerage services throughout Saint Lucia and for related matters.

Commencement [15 May 2006]

## **PART 1 PRELIMINARY**

### **1. Short title**

This Act may be cited as the Water and Sewerage Act.

### **2. Interpretation**

In this Act—

“**abstraction**” means the process by which water in its natural environment may be artificially removed through a manmade structure or through the process of changing the flow of the water from its usual course to another course; *(Inserted by Act 3 of 2016)*

“**abstraction licence**” means an abstraction licence granted under Division 4 of Part 2;

“**abstraction licence fee**” means an abstraction licence fee payable under section 18;

“**abstraction licensee**” means a person who holds a valid abstraction licence under this Act;

“**application fee**” means an application fee to be submitted with an application made under this Act;

“**Agency**” means the Water Resource Management Agency established under section 3;

“**annual tariff review**” means the annual tariff review under section 80;

“**Appeals Tribunal**” means the Appeals Tribunal appointed under section 96;

“**application**” means an application made under this Act;

“**applicant**” means a person making an application under this Act;

“**aquifer**” means a geological structure or formation or an artificial land fill permeated or capable of being permeated permanently or intermittently with water;

“**auditor**” means a person who is a member of the Institute of Chartered Accountants of the Eastern Caribbean and who holds a practicing certificate issued by the Institute; *(Substituted by Act 3 of 2016)*

“**Board**” *(Deleted by Act 3 of 2016)*

“**bore**” means any bore, hole, well, excavation or other opening in the ground naturally or artificially constructed or improved for the purpose of intercepting, collecting, obtaining or using groundwater or disposing of any water or waste below the surface of the ground, or which extends to an aquifer;

“**Bureau of Standards**” *(Deleted by Act 3 of 2016)*

“**business risk**” means the risk derived from a service licensee’s own decisions regarding its operations, investments and costs;

“**Chairperson**” means the Chairperson of the Board appointed under section 36;

“**Commission**” means the National Utilities Regulatory Commission established under section 5 of the National Utilities Regulatory Commission Act 2015; *(Substituted by Act 3 of 2016)*

“**consumer**” means a person who uses a service;

“**continuity**” means the condition by which potable water supply service or sewerage services are provided continuously, avoiding interruptions;

**"cross subsidy"** means differentiating tariffs for certain categories of customers so that the contribution by a group of customers pays for part of the cost of services supplied to other customers or group of customers;

**"customer"** means a person who subscribes for a service;

**"Deputy Director"** means the Deputy Director of the Water Resource Management Agency appointed under section 3;

**"Director"** means the Director of the Water Resource Management Agency appointed under section 3;

**"direct subsidy"** means the granting of revenue by the Government—

- (a) to certain customers to pay part of the cost of their access to a service; or
- (b) to the provider of a service to help pay part of the cost of service connection, service or construction of the works necessary for the maintenance, refurbishment, and expansion of facilities;

**"dispose"** includes transfer, destroy, sell, abandon, dismantle;

**"economic equilibrium"** means that the revenues from a service rendered allow for the full recovery of all efficiently incurred costs and reasonable compensation for the cost of capital in the provision of that service;

**"Executive Director"** (*Deleted by Act 3 of 2016*)

**"environment"** means all aspects of a person's surroundings, including the physical, biological, economic, cultural and social aspects of such surroundings;

**"extraordinary tariff review"** means the extraordinary tariff review under section 82;

**"facilities"** means the premises and apparatus required to provide services;

**"Fund"** (*Deleted by Act 3 of 2016*)

**"gathering ground"** means an area of land declared to be a gathering ground under section 8;

**"Government"** means the Government of Saint Lucia;

**"groundwater"** means all water occurring or obtained from below the surface of the ground other than water contained in works, not being a bore, for the distribution, storage or treatment of water or waste, and includes water occurring in or obtained from any bore or aquifer;

**"levy"** means the water and sewerage service levy established under section 85;

**"licence"** means a licence granted under this Act;

**"licensee"** means a person who holds a valid licence under this Act;

**"low-income household"** (*Deleted by Act 3 of 2016*)

**"member"** (*Deleted by Act 3 of 2016*)

**"meter"** means any appliance used to measure, ascertain or regulate the amount of water taken or used from waterworks by means of any service, as well as any appliance used in estimating the flow of water in or from any part of waterworks;

**"Minister"—**

- (a) when referred to in Part 2 means the Minister responsible for water resource management;
- (b) when referred to in Part 3 means the Minister responsible for public utilities;

*(Substituted by Act 3 of 2016)*

**"owner"** in relation to any building or land includes a person other than a mortgagee who for the time being—

- (a) is entitled to dispose of the right of ownership of the building or land whether in possession or reversion; or
- (b) holds or is entitled to the rights and profits of the building or land under a lease or agreement, the unexpired term whereof exceeds 3 years; or
- (c) where the person referred to in paragraph (a) or (b) is absent or under any disability, his or her agent or if there is no such agent, the occupier of the building or land;

**"permit fee"** means the permit fee under section 31;

**"permit holder"** means a person who holds a valid permit under this Act;

**"person"** includes a body corporate or an unincorporated body;

**"pollution"** means the man-made or man-induced alteration of the physical, biological, chemical, and radiological integrity of water and other media;

**"potable water"** means water which meets quality standards set under this Act and to any other law in force in Saint Lucia;

**"potable water supply service"** includes the—

- (a) treating of water to make it potable water;
- (b) storing, bottling, transporting, or distribution of potable water,

and the sale or offer for sale of that water as potable water;

**"prescribed"** means prescribed in the regulations;

**"raw water"** means water which does not meet the quality standards for potable water set under this Act and any other law in force in Saint Lucia;

**"raw water supply service"** includes the, storing, transporting and distribution of raw water and the offer for sale or the sale of raw water;

**"regulations"** means regulations made under section 97;

**"repealed Act"** means the Water and Sewerage Act 1999, No. 13 of 1999;

**"Reserve Fund"** *(Deleted by Act 3 of 2016)*

**"rooftop catchment"** means any installation or device suitable for the collection of rainwater on the roof of a building or dwelling house;

**"service"** includes a water supply service, a sewerage service and the construction, operation, maintenance, rehabilitation, expansion, management and exploitation of works necessary for a water supply service or a sewerage service under a service licence;

**"service connection"** means a connection for receipt of a service;

**"service licence"** means a service licence granted under Division 2 of Part 3;

**"service licensee"** means a person who holds a valid service licence under this Act;

**"service licence fee"** means a service licence fee payable under section 61;

**"sewage"** includes residential, industrial and commercial waste and such other matter or substance as may be prescribed;

**"sewerage service"** includes the removal of sewage by pipe from the exterior of any domestic, commercial, governmental, industrial or other building and the collection, transportation, treatment and disposal of such sewage;

**"sewerage works"** means any works for the collection, transmission, treatment and disposal of sewage or any part of such works;

**"subsistence garden"** means a garden, used in connection with a dwelling or group of dwellings for the subsistence of the residents of the dwelling, the produce of which is predominantly consumed by the residents;

**"street"** includes any highway, road, lane, footway, square, court, alley or passage, whether a thoroughfare or not;

**"tariff"** means the rate charged to the customer by the service licensee for a service, calculated according to the tariff scheme;

**"tariff scheme"** means a tariff scheme established under section 78;

**"tariff review"** means an annual tariff review, an extraordinary tariff review or a triennial tariff review;

**"triennial period"** means the period of 3 years between each triennial tariff review;

**"triennial tariff review"** means a triennial tariff review under section 81;

**"universal service"** means the provision of a water supply service directly to a dwelling; (*Substituted by Act 3 of 2016*)

**"waste"** includes any solid, liquid or gaseous material including but not limited to logs, bottles, tins, sawdust, derelict vehicles, cartons, plastic, paper, glass, food, animal remains, garbage, refuse, debris, gravel stone, sand dirt or sewage or other material which may cause pollution;

**"waste control area"** means an area declared to be a waste control area under section 24;

**"water"** includes—

- (a) water flowing or situated upon the surface of any land;
- (b) water flowing or contained in any natural course for water or any lake or spring whether or not it has been altered or artificially improved;
- (c) estuarine or coastal water;
- (d) groundwater
- (e) rainwater; and
- (f) water contained by waterworks acquired, constructed, improved or operated by person providing a water supply service; (*Substituted by Act 3 of 2016*)

**"water control area"** means an area declared to be a water control area under section 23;

**"watercourse"** includes all rivers, streams, ditches, gullies, culverts, dykes and passages through which water flows, whether on the surface or underground, except water mains and sewers;

**"water harvesting"** means the practice of capturing, infiltrating or utilizing rainfall from roofs or constructed catchment surfaces; (*Inserted by Act 3 of 2016*)

**"water resource"** includes—

- (a) any surface of any land upon which water is situated or is flowing; and
- (b) any watercourse;

**“water supply service”** includes potable water supply service and raw water supply service;

**“waterworks”** includes all existing reservoirs, intakes, catchments, dams, tanks, cisterns, deep wells or boreholes, tunnels, pillar beds, conduits, aqueducts, pipes, fountains, sluices, valves, hydrants, pumps and all other structures or appliances which—

- (a) are used or intended to be used or constructed for the supply, storage, purification, conveyance, support, measurement or regulation of water by or on behalf of a service licensee; or
- (b) may be used or constructed for the purposes referred to in paragraph (a) by a service licensee, and which belong to or are managed by or leased to the service licensee;

**“works”** includes the facilities and works of expansion, replacement and network improvement for the provision of a service.

*(Amended by Act 13 of 2008)*

## **PART 2 WATER RESOURCE MANAGEMENT**

### *Division 1 Water Resource Management Agency*

#### **3. Establishment of Agency**

(1) There is hereby established the Water Resources Management Agency for the purpose of managing water resources.

(2) The Agency shall be under the portfolio of the Minister responsible for water resource management and shall be administered by a Director assisted by a Deputy Director and other necessary administrative and technical personnel appointed by the Public Service Commission. *(Amended by Act 3 of 2016)*

(3) The Director shall report to the Minister.

(4) The Minister may appoint such persons as the need arises on an *ad hoc* basis to give technical advice to the Agency.

#### **4. Functions and powers of the Agency**

(1) The functions and powers of the Agency include the following—

- (a) receiving and considering applications for abstraction licences, and permits for use of water in water control areas and permits for discharge of waste in waste control areas and making recommendation to the Minister for the approval of such applications;
- (b) establishing and maintaining a database of information necessary and relating to water resource management;
- (c) promoting the sustainability of water resources and water harvesting; *(Amended by Act 3 of 2016)*
- (d) promoting the conservation and use of water resources; *(Amended by Act 3 of 2016)*
- (e) promoting public awareness concerning the use and management of water resources;
- (f) undertaking water resources assessment and planning, including surveying, monitoring, research and development;



- (g) developing watershed management plans and facilitating regulation accordingly;
- (h) undertaking the preparation of water master plans and allocation schemes;
- (i) advising the Government on the administration of enactments that relate to or in any way affect the conservation or use of water resources;
- (j) providing technical advice to the Commission in support of the Commission's regulatory functions;
- (k) advising the Minister in relation to abstraction licences under Division 4;
- (l) advising the Minister in relation to water control areas and waste control areas under Division 5;
- (m) advising the Minister in relation to water related emergencies under Division 3;
- (n) advising the Minister in relation to gathering grounds under Division 2.

(2) Where the Agency reasonably suspects that an abstraction licensee or a permit holder is in breach of this Act, the Regulations or an abstraction licence or a permit held by an abstraction licensee or a permit holder or where an allegation of breach is made to the Agency against an abstraction licensee or a permit holder, the Agency may conduct any investigation it considers necessary in relation to the abstraction licensee or permit holder and may perform any of the following in the course of such investigation—

- (a) compel the production of documents and records in the custody or control of the abstraction licensee or permit holder;
- (b) compel the appearance of an employee or officer of an abstraction licensee or permit holder or any other person for the purpose of ascertaining compliance with this Act, the Regulations or the abstraction licence or permit;
- (c) inspect, examine or make copies of any document or record in the possession of the abstraction licensee or permit holder relevant to the abstraction licence or permit held by the abstraction licensee or permit holder;
- (d) require the verification of income and all other matters pertinent to an abstraction licence or a permit;
- (e) inspect any premises for the purpose of ascertaining compliance with this Act, the Regulations or the permit; or
- (f) seize, remove or impound any document or records relating to an abstraction licence or a permit for the purposes of examination and inspection.

(3) In carrying out the provisions of subsection (2), the Agency may consult any department of Government or statutory body likely to be affected, and shall send to the department of Government or statutory body likely to be affected, a copy of any report prepared by the Agency in consequence of any investigation made under subsection (2).

*(Amended by Act 13 of 2008)*

## **5. Revenue of Agency**

(1) All sums received by the Agency in respect of application fees, licence fees and permit fees and other charges imposed by the Agency under this Act shall be paid into the Consolidated Fund.

(2) For the proper discharge of its functions the Agency shall receive its revenue from sums allocated to the Agency by Parliament.

*Division 2*  
*Crown Rights in Water, Protection of Water and Gathering Grounds*

**6. Crown rights in water**

(1) The right to water is hereby vested in the Crown and may be exercised on its behalf by the Minister in accordance with this Act.

(2) The Crown shall, in exercising its right to water under subsection (1)—

- (a) investigate, use, control, conserve, protect, manage and administer water in Saint Lucia for domestic purposes;
- (b) engage in industrial, commercial, hydro-electrical, geothermal, navigation, fishing and agricultural activities in so far as such activities relate to water;
- (c) provide for the preservation of flora and fauna in gathering grounds;  
*(Substituted by Act 3 of 2016)*
- (ca) provide for the preservation and enhancement the ecological processes;  
and *(Inserted by Act 3 of 2016)*
- (d) prevent and mitigate the effects of erosion, drainage, pollution and flooding.

**7. Protection of water**

Where upon recommendation by the Agency, the Minister is satisfied that the quantity or quality of any water is threatened, the Minister shall—

- (a) cause to be carried out, such operations as he or she considers appropriate to prevent any matter from entering the water, or to remove or dispose of any matter and to remedy or mitigate any pollution caused by the presence of any matter in the water; and
- (b) immediately request the Minister responsible for health and any other Minister to take appropriate action in accordance with the law in force in Saint Lucia.

**8. Gathering grounds**

(1) All areas of land on which water is collected for the purposes of water works which are declared to be gathering grounds under the repealed Act or declared to be a protected forest or protected reserve under the Forest Soil and Water Conservation Act are hereby declared to be gathering grounds under this Act.

(2) The Minister shall as soon as is practicable after the commencement of this Act publish a list specifying the boundaries of all areas of land declared to be gathering grounds in accordance with subsection (1).

(3) Where, on the advice of the Agency, the Minister is satisfied that an additional gathering ground is required for the purposes of extending or augmenting the water supply, the Minister shall cause the limits or areas thereof to be marked out and the Minister shall, subject to subsection (5), by order published in the *Gazette* and at least 2 newspapers in general weekly circulation in Saint Lucia, specify the boundaries of the area and declare the area to be a gathering ground.

(4) Where an order is published under subsection (3), the land declared to be a gathering ground shall be acquired by the Government and compensation shall be payable to the owner of the land in accordance with the Land Acquisition Act.

(5) No area of land within the limits of a gathering ground shall be granted, devised or otherwise disposed of except in keeping with such conditions as may be laid down by the Minister.

## **9. Protection of defined area around gathering grounds**

(1) On the advice of the Agency and for the purpose of protecting the quantity or quality of water in any gathering ground the Minister may, by order published in the *Gazette* and at least 2 newspapers in general weekly circulation in Saint Lucia—

- (a) define an area of land around a gathering ground which is in need of protection;
- (b) prohibit or regulate the doing within that area of land of any act specified in the order; and
- (c) construct mechanisms to restrict access to that area of land.

(2) Where an order is published in the *Gazette* under subsection (1), the Government shall pay adequate compensation to the owner of the land for the loss of the use prohibited or regulated.

(3) Despite subsection (1)(b), the acts prohibited or regulated by the order made by the Minister under this section shall include—

- (a) the placing, deposit or discharge within the area of material of any kind that is likely to impair the quality or significantly reduce the quantity of the water or the storage capacity of the gathering ground;
- (b) such other acts or omissions as may be considered likely to impair the quality or significantly reduce the quantity of the water or the storage capacity of the gathering ground.

(4) A person who contravenes an order made under this section commits an offence and upon summary conviction is liable to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding one year or to both. (*Substituted by Act 3 of 2016*)

### *Division 3 Emergencies*

## **10. Water-related emergencies**

(1) Where on the advice of the Agency the Minister is satisfied that by reason of an exceptional shortage of rain, or contamination of water, a serious deficiency of supplies of water exists or is threatened, the Minister shall forthwith, by order published in the *Gazette*, in at least 2 newspapers in general weekly circulation in Saint Lucia and by any other media declare a water-related emergency and may—

- (a) permit the taking of water from any source specified in the order;
- (b) prohibit or limit the use of water for any purpose specified in the order;
- (c) prohibit or limit the taking by any person of water from a source specified in the order if the Minister is satisfied that the taking of water from that source depletes or otherwise affects the supplies available to the public;
- (d) prohibit any activity which may cause the contamination of the water; and
- (e) cater for any other matter as appears to the Minister to be expedient to meet the water-related emergency.

(2) An order made under subsection (1) shall be revoked by the Minister by order published in the *Gazette*, in at least 2 newspapers in general weekly circulation in Saint Lucia and by any other media, as soon as practicable after the deficiency or threatened deficiency has been made good or removed.

(3) A person who contravenes a provision of an Order made pursuant to subsection (1)(b), (c) or (d) commits an offence and upon summary conviction is liable to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both. (*Substituted by Act 3 of 2016*)

*Division 4*  
*Abstraction of Water*

**11. Private use of water**

(1) Subject to sections 10 and 25, the occupier of any land, his or her family and employees are entitled to abstract and use any water within the boundary of that land for the domestic necessities of his or her household, including the watering of livestock and the irrigation of a subsistence garden provided that such abstraction or use does not compromise the quality or the quantity of the water supply. *(Amended by Act 3 of 2016)*

(2) The rights under subsection (1) shall not extend to the intentional blocking of access to water by any person.

**12. Requirement for abstraction licence**

(1) A person shall not abstract water for any use other than a use specified in section 11 unless that person is a holder of a valid abstraction licence.

(2) A person who contravenes subsection (1) commits an offence and upon summary conviction is liable to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both. *(Substituted by Act 3 of 2016)*

(3) An abstraction licence granted under this Division shall not have the effect of dispensing with the necessity of obtaining any other permission where such permission is required under any law in force in Saint Lucia.

**13. Abstraction licence as of right**

A person who has been abstracting water for a continuous period of 24 months prior to the date of commencement of this Act is, subject to section 18, entitled on application to the Agency made within 6 months of commencement of this Act in accordance with section 14, to the grant of an abstraction licence for a period which expires one year after the date of commencement of this Act.

**14. Application for abstraction licence**

(1) Subject to subsection (2), a person may in the prescribed form apply to the Minister for an abstraction licence to abstract water for use other than the use to which section 11 applies.

(2) A person shall submit the application made under subsection (1) to the Agency together with the prescribed application fee.

**15. Recommendation by Agency**

(1) Subject to subsections (2), (3) and (4) and to section 13, where an application is submitted to the Agency under section 14, the Agency shall, having regard to the factors referred to in subsection (6), make a recommendation to the Minister for the grant or refusal of an abstraction licence to the applicant and shall give written reasons for a recommendation of refusal.

(2) The Agency may within 14 days of the receipt of an application, request additional information from the applicant for the purpose of considering an application.

(3) Where the Agency makes a request for information under subsection (2), the applicant shall submit that information within 14 days of the request or within a further period of time granted and specified in writing by the Agency.

(4) The Agency shall not unreasonably refuse to give a further time period under subsection (3).

(5) The Agency shall submit a recommendation under subsection (1) to the Minister, within 28 days of the application being made or information requested under subsection (3) being submitted as the case may be.

(6) The factors referred to in subsection (1) are as follows—

- (a) the ecology, hydrology and hydrogeology of the area;
- (b) the established and projected water demands in the area; and
- (c) the current and projected availability of water in the area.

## **16. Grant or refusal of abstraction licence**

(1) In accordance with a recommendation made under section 15, the Minister shall grant or refuse an abstraction licence and shall within 14 days of the receipt of the recommendation notify the applicant of the grant or the refusal and shall give the reasons in writing for a refusal.

(2) A person aggrieved by the decision of the Minister under subsection (1) shall have the right of appeal in accordance with section 96.

## **17. No recommendation or notice**

(1) If no recommendation is made by the Agency within the period specified in section 15(5) or if no notification is given by the Minister to the applicant within the 14 day period specified in section 16(1), the applicant shall have the right to make a case before the Agency and the Agency shall hear the case following an application to the Agency by the applicant.

(2) The application for a hearing before the Agency shall be in the prescribed form.

(3) Where, after a hearing under subsection (2)—

- (a) the application is refused; or
- (b) the Agency fails to make a recommendation or the Minister fails to give a notice within 14 days of the hearing,

the applicant shall have the right to appeal under section 96.

## **18. Issuance and form of abstraction licence**

An abstraction licence granted under this Division shall be issued on payment of the prescribed abstraction licence fee to the Agency and be in the prescribed form and—

- (a) shall clearly establish the scope of the abstraction licence; and
- (b) shall include the terms and conditions, in addition to those provided for in this Act or the regulations, under which the abstraction licence is granted, based on the situation regarding the relevant natural resources.

## **19. Validity of abstraction licence**

Subject to sections 13 and 21, an abstraction licence shall be valid for the period specified in it.

## **20. Breaches by abstraction licensee**

Where an allegation of breach of the terms of an abstraction licence is made by an aggrieved person to the Agency or where the Agency reasonably suspects an abstraction licensee of being in breach of its abstraction licence, the Agency, shall conduct an investigation in accordance with section 4(2) and if it finds that—

- (a) the person's allegations or its suspicions are substantiated, it shall so notify the abstraction licensee of its findings and where appropriate issue directions to the abstraction licensee—
  - (i) requesting the abstraction licensee to stop the breach and take remedial action and stipulating a time period within which such remedial action is to be completed, and
  - (ii) requesting the abstraction licensee to compensate the Government or any person aggrieved for any foreseeable damages caused by the breach within a specific time period;
- (b) the person's claim is frivolous or vexatious or that its suspicions are incorrect, it shall stop its investigations and the person bringing the action shall be liable for the cost incurred.

## **21. Suspension or revocation of abstraction licence**

Where an abstraction licensee fails to comply with any direction given by the Agency under section 20, the Agency shall advise the Minister who may suspend or revoke the abstraction licence of the abstraction licensee in accordance with the terms of the abstraction licence.

## **22. Offence of not complying with direction of Agency for abstraction licence**

An abstraction licensee who fails to comply with a direction of the Agency given under section 20 commits an offence and upon summary conviction is liable to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both. (*Substituted by Act 3 of 2016*)

### *Division 5 Water and Waste Control Areas and Permits*

## **23. Water control area**

(1) Where on the advice of the Agency the Minister is satisfied that the regulating of water use or classes of use of water in any area is necessary in the public interest, the Minister shall by order published in the *Gazette* and at least 2 newspapers in general and at least weekly circulation in Saint Lucia, declare the area as a water control area.

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

- (a) the ecology, hydrology and hydrogeology of the area;
- (b) the established and projected water demands in the area; and
- (c) the current and projected availability of water in the area.

(3) An order under subsection (1) shall specify the boundaries of the water control area, the abstraction, use or classes of use required to be regulated.

## **24. Waste control area**

(1) Where on the advice of the Agency, the Minister is satisfied that the regulating of the discharging of wastes or classes of wastes into or on—

- (a) any land;
- (b) any sewer or drain;
- (c) any bore; or
- (d) any water,

is necessary to protect the water resources from pollution or reduction in water quality, the Minister shall by order published in the *Gazette* declare the area to be a waste control area.

(2) In exercising his or her authority under subsection (1), the Minister shall have regard to the factors listed in section 23(2), and to the necessity of protecting the health of the public and the requirements of established and intended uses of water resources, including protection of the fauna and flora of watercourses and he or she shall also have regard to the desirability of protecting and enhancing the environment.

(3) An order under subsection (1) shall specify the boundaries of the waste control area and the waste or classes of waste required to be regulated.

## **25. Requirement for permit**

(1) A person shall not use water in a water control area or discharge waste or a class of waste in a waste control area, except in accordance with a permit for the purpose granted to that person by the Minister under this Division.

(2) A person who contravenes subsection (1) commits an offence and upon summary conviction is liable to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both. (*Substituted by Act 3 of 2016*)

(3) A permit granted under this Division shall not have the effect of dispensing with the necessity of obtaining any other permission where such permission is required under any law in force in Saint Lucia.

## **26. Permit as of right**

A person who has been using water in a water control area for a continuous period at least of 24 months immediately prior to the date of commencement of this Act is, subject to section 31, entitled on application made in accordance with section 27, to the Agency made within 6 months of commencement of this Act, to the grant of a permit for a period which expires one year after the date of commencement of this Act.

## **27. Application for permit**

(1) Subject to subsection (2), a person may in the prescribed form apply to the Minister for a permit to—

- (a) abstract or use water in a water control area; or
- (b) discharge waste or a class of waste in a waste control area.

(2) A person shall submit the application made under subsection (1) to the Agency together with the prescribed application fee.

## **28. Recommendation by Agency for permit**

(1) Subject to subsections (2), (3) and (4) and to section 26, where an application is submitted to the Agency under section 27, the Agency shall, having regard to the factors mentioned in subsection (6), make a recommendation to the Minister for the grant or refusal of a permit to that applicant and shall give reasons for a recommendation of refusal.

(2) The Agency may, within 14 days of the receipt of an application, request additional information from the applicant for the purpose of considering an application.

(3) Where the Agency makes a request for information under subsection (2), the applicant shall submit that information within 14 days of the request or within a further period of time granted and specified in writing by the Agency.

(4) The Agency shall not refuse to grant a further time period under subsection (3) unless it is reasonable to do so.

(5) The Agency shall submit a recommendation made under subsection (1) to the Minister within 28 days of the application being made or information requested under subsection (3) being submitted as the case may be.

(6) The factors referred to in subsection (1) are as follows—

- (a) the ecology, hydrology and hydrogeology of the area;
- (b) the established and projected water demands in the area; and
- (c) the current and projected availability of water in the area.

## **29. Grant or refusal of permit**

(1) In accordance with a recommendation made under section 28, the Minister shall grant or refuse a permit and shall within 14 days of the receipt of the recommendation notify the applicant of the grant or the refusal and shall give the reasons in writing for a refusal.

(2) A person aggrieved by the decision of the Minister under subsection (1) shall have the right of appeal in accordance with section 96.

## **30. No recommendation or notice for permit**

(1) If no recommendation is made by the Agency within the period specified in section 28(5) or if no notification is given by the Minister to the applicant within the 14 day period specified in section 29(1), the applicant shall have the right to make a case before the Agency and the Agency shall hear the case following an application by the applicant.

(2) The application for a hearing before the Agency shall be in the prescribed form.

(3) Where, after a hearing under subsection (1)—

- (a) the application is refused, or the Agency fails to make a recommendation;  
or
- (b) the Minister fails to give a notice within 14 days of the hearing,

the applicant shall have the right to appeal under section 96.

## **31. Issuance and form of permit**

A permit granted under this Division shall be issued on payment of the prescribed permit fee to the Agency and be in the prescribed form and shall—

- (a) clearly establish the scope of the permit;
- (b) include the terms and conditions, in addition to those provided for in this Act or the regulations, under which the permit is granted, based on the situation regarding the relevant natural resources.

## **32. Validity of permit**

Subject to sections 26 and 34, a permit shall be valid for the period specified in it.

## **33. Breaches by permit holder**

Where an allegation of breach of the terms of a permit is made to the Agency by an aggrieved person or where the Agency reasonably suspects that a permit holder is in breach of the permit holder's permit, the Agency, shall conduct an investigation in accordance with section 4(2) and if it finds that—



- (a) the person's allegations or its suspicions are substantiated, it shall so notify the permit holder of its findings and where appropriate issue directions to the permit holder including a direction to stop the breach;
- (b) the person's allegations are frivolous or vexatious or its suspicions are incorrect, it shall stop its investigations and the person bringing the action shall be liable for the cost incurred.

#### **34. Suspension or revocation of permit**

Where a permit holder fails to comply with a direction given by the Agency under section 33, the Agency shall advise the Minister who may suspend or revoke the permit of the permit holder in accordance with the terms of the permit.

#### **35. Offence of not complying with direction of Agency for permit**

A permit holder who fails to comply with a direction given by the Agency under section 33 commits an offence and upon summary conviction is liable to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both.  
*(Substituted by Act 3 of 2016)*

### **PART 3 WATER SUPPLY AND SEWERAGE SERVICES**

#### *Division 1 Commission*

#### **36. Establishment of Commission**

*(Amended by Act 13 of 2008 and repealed by Act 3 of 2016)*

#### **37. Functions and powers and exemption from liability of Commission**

*(Repealed by Act 3 of 2016)*

#### **38. Commission to regulate own procedure**

*(Repealed by Act 3 of 2016)*

#### **39. Seal**

*(Repealed by Act 3 of 2016)*

#### **40. Executive Director**

*(Amended by Act 13 of 2008 and repealed by Act 3 of 2016)*

#### **41. Meetings of Board**

*(Repealed by Act 3 of 2016)*

#### **42. Quorum**

*(Amended by Act 13 of 2008 and repealed by Act 3 of 2016)*

#### **43. Voting**

*(Repealed by Act 3 of 2016)*

**44. Confidentiality**

*(Repealed by Act 3 of 2016)*

**45. Declaration of interest and abstention from voting**

*(Repealed by Act 3 of 2016)*

**46. Terms of appointment**

*(Repealed by Act 3 of 2016)*

**47. Revocation**

*(Repealed by Act 3 of 2016)*

**48. Resignation**

*(Repealed by Act 3 of 2016)*

**49. Vacation**

*(Repealed by Act 3 of 2016)*

**50. Decisions not invalidated**

*(Repealed by Act 3 of 2016)*

**51. Staff**

*(Repealed by Act 3 of 2016)*

**52. Remuneration**

*(Amended by Act 13 of 2008 and repealed by Act 3 of 2016)*

**53. Fund for use by Commission**

*(Repealed by Act 3 of 2016)*

**54. Financial year of Commission**

*(Repealed by Act 3 of 2016)*

**55. Budget and plan of action of Commission**

*(Repealed by Act 3 of 2016)*

**56. Accounts of Commission**

*(Repealed by Act 3 of 2016)*

**57. Audit of Commission**

*(Repealed by Act 3 of 2016)*

**58. Auditor's report of Commission**

*(Repealed by Act 3 of 2016)*

## **59. Annual report of Commission**

*(Repealed by Act 3 of 2016)*

### *Division 2 Service licence*

## **60. Requirement for service licence**

(1) A person shall not carry on a water supply service, or a sewerage service unless that person is the holder of a valid service licence granted under this Act.

(2) A person who contravenes subsection (1) commits an offence and upon conviction, on indictment, is liable to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 15 years or to both. *(Amended by Act 3 of 2016)*

(3) A service licence granted under this Division shall not have the effect of dispensing with the necessity of obtaining any other permission where such permission is required under any law in force in Saint Lucia.

## **61. Application for service licence**

(1) The Commission may by notice published in the Gazette and in at least 2 newspapers in general and weekly circulation in Saint Lucia and by any other public media invite persons to tender applications for the provision of a water supply service or sewerage service together with a closing date for tendering of applications.

(2) Subject to subsection (3), a person wishing to carry on a water supply service or sewerage service shall, whether or not a notice is published pursuant to subsection (1), submit an application to the Commission for a service licence to provide a water supply service or sewerage service to the public or to a part of the public.

(3) An application pursuant to subsection (2) shall be in the prescribed form and shall be accompanied by and an environmental impact assessment and the prescribed service licence fee.

*(Substituted by Act 3 of 2016)*

## **62. Request for further information**

(1) The Commission may within 14 days of an application being made under section 61(2) request additional information from an applicant for the purpose of considering the application.

(2) Where the Commission makes a request for information pursuant to subsection (1), the applicant shall submit that information within 14 days of the request or within a further period of time granted and specified in writing by the Commission.

(3) The Commission shall not refuse to grant a further time period pursuant to subsection (2) unless it is reasonable to so refuse.

(4) An application shall not be taken to have been submitted to the Commission until the information requested under this section is received by the Commission.

*(Substituted by Act 3 of 2016)*

## **63. Grant or refusal of service licence**

(1) Where an application is submitted to the Commission pursuant to section 61, the Commission shall evaluate the applicant and within 28 days of receipt of the application under section 61 or information requested pursuant to section 62 being received, as the case may be, and —

(a) if satisfied that an applicant has —

- (i) the requisite technical and managerial capacity and experience in the management of similar water supply service or sewerage service;
  - (ii) the financial ability for the execution of the water supply service or sewerage service; and
  - (iii) the ability to mitigate detrimental environmental impacts associated with the water supply service or sewerage service; and is the best applicant for the grant of a service licence, may grant the service licence to that applicant; or
- (b) if not satisfied that the applicant has met the requirements referred to in paragraph (a), shall refuse to grant a service licence to that applicant.

(2) The Commission shall within 14 days of a decision under subsection (1) notify the applicant of the grant or the refusal and shall give the reasons in writing for a refusal.

(3) A person aggrieved by the decision of the Commission shall have the right of appeal pursuant to section 96(5).

*(Substituted by Act 3 of 2016)*

#### **64. No notice of grant or refusal for service licence**

(1) If no decision for the grant or refusal of an application for a service licence is given to the applicant within the period specified under section 63(2), the applicant shall, upon an application being made in accordance with subsection (2), have the right to be heard by the Commission.

(2) The application for a hearing before the Commission under subsection (1) shall be made in the prescribed form within 14 days of the end of the period specified in section 63(2).

(3) A hearing before the Commission under this section shall be held within 14 days of an application being submitted under subsection (2) and the Commission shall grant or refuse the service licence and give notice of its decision to the applicant within 14 days of the hearing.

(4) Where after a hearing under this section the Commission refuses to grant the service licence, the applicant shall have a right of appeal pursuant to section 96(5).

(5) Where the Commission fails to comply with subsection (3), the service licence shall be deemed to be refused and the applicant shall have a right of appeal pursuant to section 96(5).

*(Substituted by Act 3 of 2016)*

#### **65. Issuance and form of service licence**

A service licence granted under section 63 shall be issued on payment of the prescribed service licence fee, and—

- (a) shall clearly establish the scope of the service, including the activities for maintenance and repair of the existing works and the construction of facilities for the expansion and improvement of the service;
- (b) shall include the terms and conditions, in addition to those provided for in this Act or the regulations, under which the service is to be provided by the service licensee;
- (c) shall outline the principles and shall provide instructions regarding the accounting and information systems required to form the basis on which tariffs are to be calculated;
- (d) shall specify the financial reporting obligations of the service licensee;

- (e) may require a service licensee to provide guarantees for securing the performance of obligations; and
- (f) may specify special conditions for providing the service, based on the situation regarding the relevant natural resources, and the applicable technical and economic conditions.

## **66. Validity of service licence**

Subject to section 88, a service licence shall be valid for the period specified therein and shall be renewable in accordance with the terms of the service licence.

### *Division 3 Service licensee*

## **67. Obligations of service licensee**

Despite the obligations established in its service licence, a service licensee shall—

- (a) provide the services defined in its service licence in accordance with the law in force in Saint Lucia;
- (b) provide to the Commission such complete and regular information as the Commission requires in order to prove compliance with the tariff, tariff scheme, plan of action, claim proceedings and appeals; and
- (c) facilitate, in accordance with the regulations, the access and interconnection of other service licensees who provide services.

## **68. Rights and powers of service licensee**

A service licensee shall have all the rights and powers of a service licensee specified in this Act and in its service licence.

## **69. Sub-contracting**

(1) A service licensee may, with the written approval of the Commission, sub-contract certain of its activities to one or more third parties. *(Amended by Act 3 of 2016)*

(2) Where a service licensee has sub-contracted an activity under subsection (1), the service licensee's obligation to perform that activity remains in every respect, and the service licensee shall continue to be responsible for the performance and discharge of the activity.

## **70. Budget and plan of action of service licensee**

A service licensee shall not later than 3 months prior to the end of its financial year cause to be prepared and submit to the Commission—

- (a) a budget with the estimates of its income and expenditure; and
- (b) a plan of action,

for the service licensee in respect of the next financial year.

## **71. Accounts of service licensee**

The service licensee shall keep proper records of accounts in accordance with generally accepted international standards and principles and shall prepare and retain financial statements in respect of each financial year.

## **72. Audit of service licensee**

(1) The service licensee shall as soon as is practicable after each financial year have its accounts audited annually by an independent auditor appointed by the service licensee, who shall conduct the audit in accordance with generally accepted international accounting standards and principles.

(2) The service licensee, its directors and employees shall grant to the auditor appointed under subsection (1), access to all books, deeds, contracts, accounts, vouchers, or other documents which the auditor may deem necessary and the auditor may require the person holding or accountable for such document to appear, make a signed statement or provide such information in relation to the document as the auditor deems necessary.

(3) A person required to provide documents or information or to appear or make a signed statement under subsection (2) and who fails to comply commits an offence and upon summary conviction is liable to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding one year or to both. (*Substituted by Act 3 of 2016*)

## **73. Auditor's report of service licensee**

An independent auditor appointed under section 72 shall as soon as practicable and not later than 2 months after the end of each financial year submit copies of the audited financial statement of the service licensee and a report on the financial statement to the service licensee.

## **74. Annual report of service licensee**

(1) Subject to subsection (2) and not later than 3 months after the end of each financial year the service licensee shall submit to the Commission an annual report on the work and activities of the service licensee for that financial year.

(2) An annual report under subsection (1) shall be in the form prescribed and shall be accompanied by the auditor's report under section 73.

(3) A summary of an annual report under subsection (1) shall be published in the *Gazette* and at least 2 newspapers in general weekly circulation in Saint Lucia and the entire annual report shall be available to the public on payment of the prescribed fee to the service licensee.

## **75. Standards**

(1) Subject to subsection (2), a service licensee shall comply with the minimum standards for quality of the water supply service and sewerage service set pursuant to the Regulations made pursuant to section 97(2)(o). (*Substituted by Act 3 of 2016*)

(2) In accordance with the Public Health Act, after consultation with the Commission and the Bureau of Standards, the Minister responsible for health may—

(a) set different standards for the quality of potable water based on the particular characteristics of the various localities, regions or sectors where the services are to be or are being provided; and

(b) establish the terms for the achievement of those standards;

and the service licensee shall, by complying with those standards, be exempt from the provisions of subsection (1).

## **76. Rights of customer**

In addition to any other right contained in the contract between customer and the customer's service licensee, the customer shall have the right to—

- (a) be informed by the service licensee of the rights and obligations of the service licensee under the service licence; and
- (b) receive a service which complies with the minimum standards of quality of water, provision of service and environmental performance, provided for under this Act;
- (c) access the contents of a service licence and receive a copy of a service licence or part of a service licence on payment of the prescribed fee to the Commission;
- (d) make a claim to the Commission against his or her service licensee in accordance with the terms of the service licence in the event that the customer and the service licensee are not able to resolve the claim.

## **77. Obligations of customer**

(1) In addition to any other obligation contained in the contract between the customer and the customer's service licensee, the customer shall—

- (a) pay for the services provided or made available in accordance with the applicable tariff;
- (b) pay the levy;
- (c) comply with the technical regulations issued by the service licensee related to service connections and the maintenance of internal facilities;
- (d) allow the service licensee to install a meter on the property where service is to be made available to the customer in a location fixed by the service licensee;
- (e) shall keep the meter located on his or her property in the same condition as existed when installed, fair wear and tear excepted;
- (f) report a damaged meter to the service licensee as soon as the damage occurs or becomes known to the customer;
- (g) permit the service licensee or its agents and employees to read the meter in accordance with the terms established in the service licence.

(2) Where a customer fails, after giving the prescribed notice, to comply with subsection (1), the service licensee may suspend the service to that customer except where the customer is an essential service within the meaning of the Essential Services Act.

(3) Nothing in subsection (2) shall interfere with the right of the licensee to sue its customer for payment of the amount owed to the service licensee.

### *Division 5*

### *Tariff Scheme, Tariff, Tariff Review, Subsidies and Levy*

## **78. Tariff scheme and tariff**

(1) A tariff scheme for the services of a service licensee shall be based on the following general principles—

- (a) tariffs must recover—
  - (i) the efficiently incurred costs of the service, and
  - (ii) a reasonable return on capital,

thereby permitting the service licensee to attain the objective of economic equilibrium;

- (b) a tariff scheme must be explicit and elaborated in a manner so as to be easily understood, and must be made available to customers;
- (c) subject to paragraph (d) a tariff must not be unduly discriminating, in the sense that all customers in the same category will be treated equally;
- (d) when demand so permits, different tariffs may be established for differing localities, seasons, categories of customers, volumes of water provided and volumes of sewage discharged, if costs of the services so justify;
- (e) subject to paragraph (d), a tariff scheme must not penalize the service licensee for—
  - (i) past benefits or benefits obtained from operating the services,
  - (ii) efficiency increases different from those considered in the tariff reviews; and
- (f) a tariff scheme may permit the granting of a direct subsidy in accordance with section 83 or a cross subsidy in accordance with section 84.

(2) The Commission shall by order published in the *Gazette* and at least 2 newspapers in general weekly circulation in Saint Lucia—

- (a) establish a tariff scheme for the services of a service licence;
- (b) modify an existing tariff scheme in accordance with the modifications approved by the Commission for the services of a service licensee in accordance with section 80, 81 or 82.

## **79. Types of reviews**

There shall be 3 types of tariff reviews carried out in relation to the service of a service licensee as follows—

- (a) annual tariff review;
- (b) triennial tariff review; and
- (c) extraordinary tariff review,

which will be considered by the Commission in approving a tariff or a tariff scheme or a modification of a tariff scheme in accordance with sections 80, 81 or 82.

## **80. Annual tariff review**

(1) An annual tariff review shall be carried out annually by a service licensee within a triennial period between the ninth and the eleventh month in each 12 month period following the date of commencement of the service licence of that service licensee.

(2) In carrying out the annual tariff review the service licensee shall ensure that the value of the tariff is maintained in real terms, regardless of the evolution of the service licensee's own costs and using an index stipulated in the service licence.

(3) The service licensee shall submit to the Commission the new tariffs if any which it requires to be applied in accordance with the tariff scheme together with supporting information for approval and publication in accordance with subsection (4).

(4) The Commission—

- (a) may amend the new tariffs required by the service licensee and submitted to it pursuant to subsection (3), if it considers that an error has been made in calculating the new tariffs; or



- (b) shall, if it accepts the tariffs submitted to it pursuant to subsection (3), publish the new tariffs, the corresponding indices and the effective date in two newspapers in general and weekly circulation in Saint Lucia at least one month prior to the effective date.

*(Amended by Act 13 of 2008)*

## **81. Triennial tariff review**

(1) The Commission shall carry out and complete a triennial tariff review in accordance with subsections (2), (3), (4) and (5) for a triennial period of at least 60 days before the end of that triennial period.

(2) In carrying out a triennial tariff review, the Commission shall review the tariff scheme and level of tariffs in the service licensee's tariff scheme, taking into consideration the new quality and expansion goals set by the Commission and the investment plan of the service licensee for the ensuing triennial period.

(3) The Commission shall prepare a draft report of the triennial tariff review stipulating the new tariff scheme or the modification of the service licensee's tariff scheme including the tariff scheme and the level of tariffs which is required to be applied to generate the required revenues for the service licensee to enable it to fulfil its obligations during the subsequent 3 years or remaining term of its licence whichever is shorter, and shall publish the draft report in the *Gazette* and at least 2 newspapers in general weekly circulation in Saint Lucia and shall invite comments from the public within at least 2 weeks from the date of publication.

(4) The Commission shall consider the comments made by the public under subsection (3) and shall make the changes to the report as it sees fit.

(5) The Commission shall not later than 60 days prior to the end of the triennial period, publish the report stipulating the new or modified tariff scheme in the *Gazette* and in at least 2 newspapers in general weekly circulation in Saint Lucia.

(6) The new or modified tariff scheme referred to in subsection (5) shall be applied during the triennial period next ensuing the one in which the triennial review was carried out.

*(Amended by Act 13 of 2008)*

## **82. Extraordinary tariff review**

(1) An extraordinary tariff review shall be carried out by the Commission where due to one or more circumstances listed in subsection (2), a service licensee experiences what in its view constitutes a significant variation in its cost structure in relation to what was approved in the previous annual tariff review or triennial tariff review as the case may be.

(2) For the purposes of subsection (1), a circumstance constitutes—

- (a) a substantial and unforeseen modification made to the water or sewerage quality standards or to the regulations imposing a substantial change in the conditions under which the services are provided and which entail a cost to the service licensee;
- (b) the creation, substitution or modification of taxes affecting the service licensee or the provision of the services; or
- (c) a substantial and unforeseen change in the conditions under which the services are provided, including a situation of *force majeure*,

provided that in any event, the impact triggering an extraordinary review, will be defined in the service licence.

(3) In carrying out an extraordinary tariff review the Commission shall define the marginal effect of each applicable circumstance listed in subsection (2) on the economic equilibrium of the service licensee.

(4) The Commission shall prepare a draft report of the extraordinary tariff review stipulating the new tariff scheme or the modification of the service licensee's tariff scheme including the tariff scheme and the level of tariffs which are required to be applied to generate the required revenues for the service licensee to enable it to fulfil its obligations during the remaining term of the triennial period or its service licence whichever is shorter, and shall publish the draft report in the *Gazette* and at least 2 newspapers in general weekly circulation in Saint Lucia and shall invite comments from the public within at least 2 weeks from the date of publication.

(5) The Commission shall consider the comments made by the public under subsection (4) and shall after consultation with the service licensee make the changes as it sees fit to the report. *(Amended by Act 3 of 2016)*

(6) The Commission shall as soon as is reasonably practicable publish the report stipulating the new or modified tariff scheme in the *Gazette* and at least 2 newspapers in general weekly circulation in Saint Lucia.

(7) The new or modified tariff scheme referred to in subsection (6) shall be applied during the remaining term of the triennial period in which the extraordinary review was carried out or the remaining term of the service licence whichever is shorter.

*(Amended by Act 13 of 2008)*

### **83. Direct subsidy**

(1) Cabinet may, by order published in the *Gazette*, grant a direct subsidy for the provisions of a service in order to ensure that households specified in the Order under subsection (2) have universal service. *(Substituted by Act 3 of 2016)*

(2) An Order pursuant to subsection (1) shall specify the households or category of households who are beneficiaries of the direct subsidy and the precise extent of the subsidy. *(Substituted by Act 3 of 2016)*

(3) The Commission shall advise Cabinet on the determination of all aspects of any direct subsidy including the conditions under which it is to apply as well as on the applicable conditions.

(4) The operation of any direct subsidy shall be reviewed not less than annually by the Commission which shall thereupon, as a result, make such recommendations to Cabinet as it deems appropriate regarding the termination or continuation of, or any amendment to, the direct subsidy.

(5) Subject to subsection (1), Cabinet may by order in the *Gazette* terminate, continue or amend any existing direct subsidy.

### **84. Cross subsidy**

(1) Cabinet may by Order published in the *Gazette* provide a cross subsidy for the provision of a service in order to ensure that categories of households specified in the Order under subsection (2) have universal service. *(Substituted by Act 3 of 2016)*

(2) An Order pursuant to subsection (1) shall specify the categories of households who are beneficiaries to the cross subsidy and the precise extent of the cross subsidy. *(Substituted by Act 3 of 2016)*

(3) The Commission shall advise Cabinet on the determination of all aspects of the cross subsidy including the conditions under which it is to apply.

(4) The operation of any cross subsidy shall be reviewed not less than annually by the Commission which shall, as a result, make such recommendations to Cabinet as it deems appropriate regarding the termination or continuation of, or any amendment to, the cross subsidy.

(5) Subject to subsection (1), Cabinet may by order in the *Gazette* terminate, continue or amend any existing cross subsidy.

## **85. Levy**

(1) There is hereby established a levy to be known as the water and sewerage service levy which shall be charged to every customer for the provision of a potable water supply service or sewerage service.

(2) The amount of the levy in relation to a service licensee and the rate of any interest payable by a service licensee under subsection (5) shall be determined by Cabinet by order published in the *Gazette* and at least 2 newspapers in general weekly circulation in Saint Lucia.

(3) The levy shall be charged by each service licensee to every one of its customers in the customer's monthly invoice and the levy shall be collected by the service licensee.

(4) The service licensee shall submit the levy to the Commission within 28 days of collection and the levy shall form part of the revenue of the Commission in accordance with section 28(1)(b) of the National Utilities Regulatory Commission Act, 2015. (*Substituted by Act 3 of 2016*)

(5) Where a service licensee fails to comply with subsection (4), the service licensee shall be liable for the payment of the levy together with interest at the rate determined by Cabinet under subsection (2).

### *Division 6 Breaches, offences and penalties*

## **86. Breach relating to minimum standards of potable water**

In the event that the quality of water provided as potable water to a customer falls below the minimum standards set under this Act or to any other law in force in Saint Lucia, the service licensee providing the water shall immediately on becoming aware of the fall in standard inform—

- (a) the Commission in writing; and
- (b) its customers, directly wherever possible and through television, radio, the print media, and any other reasonable means of communication,

indicating the preventive measures to be taken and describing the problem that caused the lowering of the water quality, the reason the problem arose, the measures being, and to be, taken by the service licensee to restore the stipulated minimum water quality level and the estimated time and expense needed for these restorative purposes, and the Commission shall direct the service licensee accordingly and the service licensee shall comply with the directions of the Commission.

## **87. Breaches by the service licensee**

(1) A service licensee shall be in breach of its service licence if it—

- (a) unjustifiably interrupts the provision of its service;
- (b) provides potable water which fails to meet the minimum standards required under this Act and to any other law in force in Saint Lucia;
- (c) breaches the minimum standards set under the regulations made under section 97(2)(o) for—
  - (i) the-provision of service,
  - (ii) environmental performance;
- (d) does not comply with the tariff scheme;
- (e) applies an incorrect invoice to a customer; or

- (f) fails to comply with any provisions of this Act, the regulations or its service licence.

(2) When an allegation of breach mentioned in subsection (1) has been made to the Commission by a person aggrieved, or where the Commission reasonably suspects that a service licensee is in breach of its service licence, the Commission shall conduct an investigation into the allegation in accordance with sections 37(2) and section 38 and if it finds that—

- (a) the person's allegations or its suspicions are substantiated, it shall so notify the service licensee of its findings and where it deems appropriate issue directions to the service licensee—
  - (i) requesting the service licensee to take remedial action and stipulating a time period within which such remedial action is to be completed, and
  - (ii) requesting the service licensee to compensate one or more of its customers for any foreseeable damages caused to such customer or customers by the breach within a specific time period;
- (b) the person's claim is frivolous or vexatious, it shall stop its investigations and the person bringing the claim shall be liable for the cost incurred.

#### **88. Remedial action, suspension or revocation of service licence**

Where a service licensee fails to comply with any direction given by the Commission under section 87, the Commission shall advise the Minister who may—

- (a) utilize the security or part of the security held by way of guarantee under section 65(e), for the execution of the remedial action or payment of compensation for foreseeable damages caused by the breach; or
- (b) suspend or revoke the service licence of the service licensee in accordance with the terms of the service licence.

#### **89. Offence of not complying with direction of Commission**

(1) Subject to subsection (2), a service licensee who fails to comply with a direction given by the Commission under section 87 commits an offence and upon conviction on indictment is liable to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 15 years or to both. (*Substituted by Act 3 of 2016*)

(2) A prosecution for an offence pursuant to subsection (1) shall not be brought during the time within which an appeal may be applied for or during an appeal pursuant to section 96.

(*Amended by Act 13 of 2008*)

#### **90. Offences in respect of water supply and sewerage service**

- (1) A person shall not wilfully—
  - (a) cause any pipe, valve, cock, cistern, bath, sink, pan, water closet or other apparatus belonging to, or connected with, the waterworks, to be out of repair, or to be so used or contrived in such a way that the water supplied to such person is or is likely to be wasted, misused, unduly consumed or contaminated;
  - (b) cause any pipe belonging to or connected to a pipe of the waterworks to be used or manipulated in such a way as to occasion or allow the return of foul, noxious or impure matter therein;
  - (c) remove or tamper with any gauge, meter, measuring instrument, level, mark, or any other appliance forming part of the waterworks;
  - (d) damage any part of the waterworks or sewerage works;

- (e) commit any act which by itself or with other acts, impedes or interrupts, or is calculated to interrupt the flow of water belonging to the waterworks;
- (f) obstruct the lawful execution or implementation of any provision of this Act or the regulations;
- (g) discharge any substance the composition of which damages the quality of any source of water used for water supply service; or
- (h) use any water supply or water system for any purpose that may jeopardize the public health or alter the chemical or bacteriological balance of the water in the water supply system.

(2) A person who contravenes subsection (1) commits an offence and upon summary conviction is liable to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding one year or to both. *(Substituted by Act 3 of 2016)*

(3) In the event any damage results to waterworks or sewerage works from the commission of any of the offences mentioned in this section, the Court may, in addition to the punishment imposed under subsection (2), order the person convicted under that subsection to pay compensation to the service licensee.

## **91. Offences of obstructing service licence**

(1) A person shall not obstruct or attempt to obstruct the members, officers and staff of the Commission or any service licensee in the performance of any powers or functions conferred by this Act.

(2) A person who contravenes subsection (1) commits an offence and upon summary conviction is liable to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding one year or to both. *(Substituted by Act 3 of 2016)*

## **92. Criminal liability for damage and wrongful service connection**

(1) A person shall not—

- (a) wilfully damage the facilities or alter a meter belonging to a service licensee or otherwise prevent any such meter from correctly registering the quantity of water supplied by the service licensee; or
- (b) connect to any pipe or meter any device capable of wrongfully abstracting, diverting, consuming or using water or of preventing any meter from correctly registering any quantity of water supplied by a service licensee.

(2) A person who contravenes subsection (1) commits an offence and upon summary conviction is liable to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding one year or to both. *(Substituted by Act 3 of 2016)*

(3) Where there exists upon any premises or land any device capable of wrongfully abstracting, diverting, consuming or using water or of preventing any meter from correctly registering any quantity of water supplied by a service licensee the burden of proof lies on the person charged to prove that the person has not unlawfully abstracted or diverted water or has not unlawfully prevented a meter from duly registering any quantity of water supplied by the service licensee.

(4) Without prejudice to subsection (2)—

- (a) the court may order that the service licensee recover the amount of any damage sustained by the service licensee from a person convicted under that subsection; and
- (b) the service licensee may discontinue service to that person.

## **PART 4 MISCELLANEOUS**

### **93. Matters excluded from dispute Resolution**

Sections 94 and 95 of this Act shall not apply to any issue, cause or matter arising in relation to a tariff scheme.

*(Amended by Act 13 of 2008)*

### **94. Matters to be submitted to dispute resolution**

When a dispute relating to any matter concerning anything under this Act arises between a licensee or a permit holder, and either the Commission, the Agency or the Government such dispute shall be resolved by dispute resolution in accordance with the Regulations.

*(Amended by Act 13 of 2008)*

### **95. Arbitrator and applicable law**

*(Repealed by Act 13 of 2008)*

### **96. Appeal**

(1) There is hereby established an appeals tribunal for the purpose of hearing appeals against decisions of the Agency or the Minister responsible for water resource management.

(2) The constitution and procedure of the Appeals Tribunal shall be as prescribed in the regulations made under section 97(2)(q).

(3) An appeal from a decision of the Agency or the Minister responsible for water resource management lies to the Appeals Tribunal.

(4) A person may, within 28 days of a decision of the Agency or Minister responsible for water resource management apply in writing to the Appeals Tribunal against that decision.

(5) An appeal from the decision of the Commission lies to the appeals tribunal established under section 43 of the National Utilities Regulatory Commission Act, 2015 in accordance with that Act.

*(Substituted by Act 3 of 2016)*

### **97. Regulations**

(1) The relevant Minister, after consultation with the Agency or the Commission, as the case may be, may make regulations for the purpose of giving effect to the provisions of this Act.

(2) Without prejudice to subsection (1), the relevant Minister, after consultation with the Agency or the Commission, as the case may be, may make regulations particularly—

- (a) for the protection of customers and of the public generally against personal injury or damage to property arising from the operations of a service licensee;
- (b) to provide for enquiries in connection with any accident which is or may be attributed to an escape of water or sewerage or to the state of operation of any part of the undertaking;
- (c) relating to a tariff scheme;

- (d) relating to the publication of information regarding the service provided by a service licensee;
- (e) to prescribe the form of applications and service licences and permits and orders under this Act;
- (f) prescribing the criteria for evaluating applicants for service licences;
- (g) prescribing the form of annual reports;
- (h) to prescribe fees payable under this Act;
- (i) to prescribe application for hearing under section 17(2) and 64(2); and
- (j) *(deleted by Act 3 of 2016)*;
- (k) to prescribe the allowance for a member of the review panel;
- (l) prescribing the size, nature, efficiency, materials, strength and workmanship, and the mode of arrangement, service connection, disconnection of service, alteration and repair of the water fittings to be used;
- (m) prescribing the circumstances in which, and the methods by which, water is to be stored and treated on any premises;
- (n) governing installation, operation and maintenance of water supply system within a private development;
- (o) to set standards relating to—
  - (i) the provisions of a service,
  - (ii) to environmental performance;
- (p) prescribing the manner of facilitation of access and inter connection of the other service licensees who provide services;
- (q) prescribing the constitution and procedure of the Appeals Tribunal.

(3) The Regulations made pursuant to this section may create an offence for a breach of a provision of the Regulations and a person is, upon summary conviction for an offence created pursuant to the Regulations, liable to a fine not exceeding \$3000 or to imprisonment for a term not exceeding 6 months. *(Amended by Act 3 of 2016)*

(4) For the purposes of this section “**relevant Minister**”—

- (a) in the case of matters relating to water resource management, means the Minister responsible for water resource management;
- (b) in the case of matters relating to water supply service and sewerage service, means the Minister responsible for utility supply services.

*(Amended by Act 13 of 2008 and substituted by Act 3 of 2016)*

## **98. Act binds the Crown**

This Act binds the Crown.

## **99. Savings**

Any action, proceeding and any like matter commenced or pending under the repealed Act shall continue under this Act as if it had been commenced under this Act.

## **Schedule**

(Section 37(1)(e))

## ECONOMIC REGULATION

The economic regulation of the services shall be based on the following principles—

1. discriminatory practices in the provision of services will be limited as much as possible;
2. fair competition practices will be promoted to the extent possible in the provision of services;
3. there will be no reuse of past benefits to—
  - (a) compensate deficits incurred as a consequence of business risk;
  - (b) revalidate inefficiencies in the provision of the services; and
  - (c) allow a service licensee to appropriate profits obtained from restrictive practices towards its competition or from the abuse of its dominant position;
4. there will be a rational and efficient use of the resources involved and the services supplied;
5. there will be consistent balance between service supply and demand;
6. there will be universal service; and
7. that there will be constant improvements in productivity and efficiency, without affecting the continuity and quality of service delivery.

---

## **CHAPTER 9.03 WATER AND SEWERAGE ACT**

### **SUBSIDIARY LEGISLATION**

---

#### *List of Subsidiary Legislation*

1. Water and Sewerage (Service Levy) Order – Section 85
2. Water and Sewerage (Code of Conduct) Regulations – Sections 38 and 97
3. Water and Sewerage (General Provisions) Regulations – Section 97
4. Water and Sewerage (Appeals Tribunal) Regulations – Section 97
5. Water and Sewerage (Tariff) Regulations – Section 97
6. Water and Sewerage (Water Resource Management) Regulations – Section 97
7. Water and Sewerage (Water Resource Management) (Fees) Regulations – Section 97(2)(h)
8. Water and Sewerage (Water-Related Emergency) (Declaration) (No. 2) Order – Section 10(1)

---

### **Water and Sewerage (Service Levy) Order – Section 85 (Statutory Instrument 102/2008)**

Statutory Instrument 102/2008 .. in force 19 November 2008

## ARRANGEMENT OF REGULATIONS

1. Citation



2. Interpretation
  3. Water and sewerage service levy
  4. Service licensee interest
- 

## **WATER AND SEWERAGE (SERVICE LEVY) ORDER – SECTION 85**

Commencement [19 November 2008]

### **1. Citation**

This Order may be cited as the Water and Sewerage (Service Levy) Order.

### **2. Interpretation**

In this Order "Act" means the Water and Sewerage Act.

### **3. Water and sewerage service levy**

The levy payable by a customer in each month's water invoice from a service licensee for water and sewerage service in accordance with section 85 of the Act shall be calculated by the Commission, using its budget as prepared pursuant to section 55 of the Act as a percentage not exceeding 2% of the total revenue of the service licensee during the previous calendar year.

### **4. Service licensee interest**

The annual interest rate payable by a service licensee who fails to pay levies collected in the manner required by section 85 of the Act is equal to the service licensee's allowable return on equity as determined by the Commission plus 3%.

---

## **Water and Sewerage (Code of Conduct) Regulations – Sections 38 and 97**

### **(Statutory Instrument 103/2008)**

Statutory Instrument 103/2008 .. in force 19 November 2008

#### **ARRANGEMENT OF REGULATIONS**

1. Citation
  2. Code of Conduct
- Schedule
- 

## **WATER AND SEWERAGE (CODE OF CONDUCT) REGULATIONS – SECTIONS 38 AND 97**

Commencement [19 November 2008]

### **1. Citation**

These Regulations may be cited as the Water and Sewerage (Code of Conduct) Regulations.

## **2. Code of Conduct**

The Code of Conduct set out in the Shedule shall, in addition to the provisions of the Water and Sewerage Act, regulate the conduct of the Board and staff of the Commission.

### **Schedule**

(Regulation 2)

#### **1. Conduct of Board and staff of Commission**

(1) A member of the Board or staff of the Commission shall conduct himself or herself in such a manner as to promote public confidence in the integrity and impartiality of the Commission.

(2) A member of the Board or staff of the Commission who fails to comply with the requirements of this Code of Conduct may be subjected to disciplinary or removal proceedings.

#### **2. Financial interests**

(1) A member of the Board or staff of the Commission with decision influencing responsibilities shall not own any financial interest of any sort in any licensee or permit holder regulated by the Commission or applicant.

(2) A member of the Board or staff of the Commission must disclose to the Commission and to the public, any financial interest in any entity that is not a licensee potentially affected by a decision of the Commission.

#### **3. Gifts or favours**

(1) A member of the Board or staff of the Commission shall not accept any favour or item of value or offer of favours or items of value from a licensee, or, permit holder applicant or from any person with interest in a matter before the Board.

(2) A member of the Board or staff of the Commission who receives a favour or item of value must report receipt of the favour or item of value to the Board within or not later than 90 days after receipt of the favour or item of value in writing .

#### **4. Ties to licensees**

If an immediate family member of a member of the Board or staff of the Commission is employed by a licensee, or a permit holder, or an applicant, or owns a financial interest in a licensee, permit holder, or applicant, the relevant facts shall be disclosed to the Commission and to the public and the member of the Board or staff member shall not take part in the matter affecting that licensee, permit holder or applicant.

#### **5. Recommendations of employment**

A member of the Board or staff member of the Commission shall not recommend a person for employment either directly or as a consultant by a licensee, permit holder or applicant.

#### **6. Ex parte contacts**

A member of the Board or staff member of the Commission shall not discuss a pending licence or tariff recommendation with the applicant outside of the procedures by the Commission and if such discussion occurs, it must be reported to the Board in writing and made public.

---

**Water and Sewerage (General Provisions) Regulations – Section 97**  
**(Statutory Instrument 104/2008)**

Statutory Instrument 104/2008 .. in force 19 November 2008

ARRANGEMENT OF REGULATIONS

1. Citation
2. Interpretation
3. Tenure of board members
4. Remuneration and Retainer
5. Commission staff
6. Consultants
7. Public consultation
8. Purpose of proceedings
9. Public access to information
10. Form of Commission decisions
11. Citizenship Advisory Councils
12. Form of service licence application
13. Form of Commission orders
14. Form of application for hearing
15. Waiver of regulations
16. Procedure for handling complaints

---

**WATER AND SEWERAGE (GENERAL PROVISIONS) REGULATIONS – SECTION 97**

Commencement [19 November 2008]

**1. Citation**

These Regulations may be cited as the Water and Sewerage (General Provisions) Regulations.

**2. Interpretation**

In these Regulations—

“**Act**” means the Water and Sewerage Act;

“**Chairperson**” means the Chairperson of the Commission appointed pursuant to section 36 of the Act;

“**Commission**” has the same meaning as in the Act;

“**member**” means a member of the Board of the Commission appointed pursuant to section 36 of the Act.

*Commission*

**3. Tenure of board members**

(1) The first members of the Board of the Commission shall hold office for 3 years, 4 years, 5 years, 6 years and 7 years respectively.

(2) The term of the Chairperson shall be at least 5 years.

(3) A Board member appointed subsequently to the first appointments shall hold office for 5 years, except if appointed to fill a vacancy, in which case he or she shall hold office for the unexpired term.

#### **4. Remuneration and Retainer**

(1) A member of the Board is entitled to remuneration of \$300 per meeting at which the member is present.

(2) The Chairperson is entitled to a monthly retainer of \$1500.

#### **5. Commission staff**

The Commission may appoint staff who shall work under the supervision and direction of the Executive Director including any one or more of the following—

- (a) a manager whose responsibilities include managing consultants in the preparation of tariff decisions and the preparation of recommendations to the Minister as to service standards and other regulations to be issued under the Act;
- (b) one or more employees whose duties include handling customer concerns and overseeing processes for public and media involvement in the activities of the Commission;
- (c) a legal officer or advisor whose duties include legal advice to the Commission and legal review of Commission decisions and recommendations;
- (d) an administrative assistant, who shall perform administrative duties.

#### **6. Consultants**

(1) The Commission may contract consultants to provide assistance that it may require for the proper carrying out of its functions.

(2) In the case of a consultancy in excess of \$25,000 the Commission shall seek offers from at least 3 consultants qualified to perform the work and shall choose among the respondents according to criteria announced at the time of the request for proposals.

(3) The scoring shall be made public at the time that the winning bid is announced.

#### **7. Public consultation**

(1) The Commission shall engage in public consultation before making a decision.

(2) Subject to sub regulation (3), the Commission shall decide the manner and time frame for public consultation.

(3) The Commission shall allow a party, who has a particular interest other than the general public interest, sufficient involvement to enable the party to protect its interest.

(4) Notwithstanding sub-section (2), the Board members and any persons authorised by it have the right to ask questions of a party involved in Commission proceedings.

#### **8. Purpose of proceedings**

The primary purpose of all Commission proceedings and hearings is to provide the Commission with the information necessary to reach a fair decision and the Commission shall organise its proceedings to that end.

## **9. Public access to information**

(1) The Commission shall give the public access to information in its possession unless the Commission considers that such access should be precluded on grounds of personal privacy, pending litigation, national security or commercial sensitivity.

(2) The Commission, licensees and permit holders shall maintain a web site designed to keep the public apprised on questions of substantial public significance.

(3) The Commission shall also maintain and disseminate brochures on the rights of water customers, methods of water conservation, and all other matters of substantial public concern.

(4) Board members shall take an active role in meeting with the public to hear public concerns, and to explain Commission decisions and policies.

## **10. Form of Commission decisions**

The Commission's decisions shall be in writing and publicly available and shall contain a statement of the Commission's reasoning.

## **11. Citizenship Advisory Councils**

The Commission, licensee and permit holders may each create citizen advisory councils, comprising groups of citizens who are interested in assisting in ensuring an effective water sector and good water services

### *Form and content of applications and orders*

## **12. Form of service licence application**

(1) An application for a service licence pursuant to section 6 of the Act shall contain the following information—

- (a) a complete description of the service to be rendered;
- (b) a complete description of the proposed service territory including, if the licence is to be exclusive, the precise geographic boundaries;
- (c) proof of the competency of the licensee to render the service adequately and in an environmentally acceptable manner;
- (d) proof that the licensee is financially qualified to render the service;
- (e) a complete set of proposed tariffs, and a description of the method by which the tariff was calculated;
- (f) plans and schedules for investments to improve service, including pressure stability, service extension, loss reduction, metering and water conservation;
- (g) proof that any other necessary permits have been obtained or are likely to be obtained;
- (h) a complete description of the prospective licensee, including all corporate affiliates, all other countries in which that company or corporate affiliate renders water service and a copy of annual reports prepared by the prospective licensee or corporate affiliate;
- (i) the identities and resumes of the individuals proposed to act as chief executive officer, chief operational officer, and chief financial officer;
- (j) additional information that the Minister or the Commission may request.

(2) Upon receipt of an application that conforms with the requirements in sub regulation (1), the Commission shall provide public notice of it, together with a

description of the process by which members of the public may inform themselves as to the application and may make their views known to the Commission.

(3) In evaluating the licence application, the Commission shall take into account and make specific findings as to the experience of the applicant in operating water systems in the Caribbean region and elsewhere, including whether the applicant has been successful in improving service, in connecting new customers, in increasing efficiency (including loss reduction), and in improving customer satisfaction and the applicant's record of environmental compliance and so as to provide potable water shall also be the subject of specific findings.

(4) The Board shall also evaluate the specific technical and managerial experience of individuals identified to manage licensees' operations in Saint Lucia and this evaluation shall include their performance with regard to the criteria set out in sub regulation (3).

### **13. Form of Commission orders**

(1) The Commission shall include in its orders the decision reached and an explanation of the reasons for the decisions and the Commission may also refer to prior Commission and Ministerial decisions where applicable.

(2) The Commission shall make the Order available to the public and to the media.

### **14. Form of application for hearing**

An application for a hearing under section 64(2) of the Act shall be in writing and shall state the date of the original application and the reasons, if known to the applicant, why no recommendation and or decision has been rendered and the Commission shall give public notice of the requested hearing.

### **15. Waiver of regulations**

(1) Upon a finding that good cause exists, the Minister or the Commission that has promulgated any requirement or procedure pursuant to this section, may waive or modify the application of that regulation and the waiver shall be limited in time and scope to the minimum necessary to meet the good cause that has been found.

(2) The Commission or Minister as the case may be shall, before the waiver takes effect, publish on its website and in at least 2 newspapers in general and at least weekly circulation in Saint Lucia—

- (a) the waiver granted;
- (b) the reason for giving the waiver;
- (c) the scope and duration of the waiver; and
- (d) a justification of why the waiver was the best way to achieve the objective sought.

### **16. Procedure for handling complaints**

(1) The Commission shall attend to customers in a prompt and courteous manner and a response to a communication in writing by a customer is prompt if done within 48 hours.

(2) The Commission shall keep a record of all customer contacts and shall separate the record in the following categories—

- (a) information seeking;
- (b) service related;
- (c) metre accuracy;

- (d) service connection;
- (e) disconnection; or
- (f) miscellaneous.

(3) The record shall include the name and address of the complainant, the date and time received, a summary of the specifics of the contact, and the name of the official handling the contact.

(4) A complaint lodged under any category other than 'information seeking' shall not be processed unless the customer has first raised the complaint with the licensee, and has been unable to resolve it.

(5) The official handling the complaint shall make every effort to resolve it informally, but should also advise customers of their rights pertaining to the type of complaint filed.

(6) If informal resolution is not possible, the official handling the complaint shall use such fact finding methods as are appropriate to the matter in dispute and should prepare a written decision to be issued by the Board.

(7) A complete record of complaints and decisions should be kept and reported to the Board at regular intervals.

---

## **Water And Sewerage (Appeals Tribunal) Regulations – Section 97**

### **(Statutory Instrument 105/2008)**

Statutory Instrument 105/2008 .. in force 19 November 2008

#### **ARRANGEMENT OF REGULATIONS**

##### **PART 1 PRELIMINARY**

- 1. Citation
- 2. Interpretation

##### **PART 2 CONSTITUTION AND POWERS**

- 3. Constitution
- 4. Tenure
- 5. Removal and resignation
- 6. Inquiry
- 7. Continuation of proceedings after termination
- 8. Absence or incapacity
- 9. Publication of changes in membership
- 10. Secretary
- 11. Remuneration
- 12. Sittings and quorum
- 13. Powers of Tribunal
- 14. Expert advice
- 15. Confidentiality
- 16. Validity of proceedings

##### **PART 3 APPEAL PROCEDURE**

- 17. Application for appeal
- 18. Transmission of the appeal documents
- 19. Hearing
- 20. Decisions

- 21. Costs
- 22. Decision final

#### **PART 4 ENFORCEMENT AND OFFENCES**

- 23. Filing of order
  - 24. Offence
  - 25. Perjury
- 

### **WATER AND SEWERAGE (APPEALS TRIBUNAL) REGULATIONS – SECTION 97**

Commencement [19 November 2008]

#### **PART 1 PRELIMINARY**

##### **1. Citation**

These Regulations may be cited as the Water and Sewerage (Appeals Tribunal) Regulations.

##### **2. Interpretation**

In these Regulations—

“**Act**” means the Water and Sewerage Act;

“**appellant**” means a service licensee or an intervening party who participated extensively or sought to participate, in the proceeding leading to the decision being appealed;

“**Tribunal**” means the Appeals Tribunal appointed pursuant to section 96 of the Act.

#### **PART 2 CONSTITUTION AND POWERS**

##### **3. Constitution**

(1) Subject to subsection (2), the Tribunal shall comprise not less than 3 nor more than 5 members, appointed by the Judicial and Legal Services Commission after consultation with Cabinet.

(2) The Tribunal shall have at least one member who is an expert in water sector operations, one who is an expert in economic regulations and one who is an expert in regulatory law.

(3) One member of the Tribunal shall be from Saint Lucia, and one member may be from the same country as the licensee, or permit holder or any significant shareholder in the licensee or permit holder.

##### **4. Tenure**

Subject to regulation 5, a member of the Tribunal shall hold office for a term of 5 years, but shall be eligible for reappointment.



## **5. Removal and resignation**

(1) A member of the Tribunal may be removed from office by the Judicial and Legal Services Commission after consultation with Cabinet and the Commission on the grounds of—

- (a) failure to execute his or her functions as a member by reason of infirmity or mental illness;
- (b) misconduct;
- (c) failure to execute his or her functions as a member without reasonable excuse; and
- (d) being placed, by conduct or otherwise, in a position that is incompatible with the due execution of his or her office.

(2) A member of the Tribunal may at any time resign from office by instrument in writing addressed to the Judicial and Legal Services Commission, transmitted through the Chairperson, and such resignation shall take effect as from the date of receipt of the instrument by the Judicial and Legal Services Commission.

## **6. Inquiry**

(1) The Commission shall cause a commission of inquiry to be appointed under the Commissions of Inquiry Act, Cap. 17.03 where it considers that an inquiry should be held to determine whether a member of the Tribunal should be subject to disciplinary or remedial measures on any of the grounds specified in regulation 5.

(2) The Commissioner of the inquiry shall send his or her report to the Judicial and Legal Services Commission, Cabinet and the Commission.

(3) On receipt of a report under subregulation (2), the Judicial and Legal Services Commission may, after consultation with Cabinet and the Commission, remove a member of the Tribunal or take any other remedial measure recommended by the Commissioner of the inquiry.

## **7. Continuation of proceedings after termination**

(1) A person who resigns or ceases to hold office as a member may, if authorised to do so by the Judicial and Legal Services Commission after consultation with Cabinet and the Commission, continue to inquire into, hear and determine a proceeding to which that person was assigned while that person was a member.

(2) Where a person continues to be a member in accordance with subregulation (1), he or she shall continue to be a member on the terms and conditions that the Judicial and Legal Services Commission, after consultation with Cabinet and the Commission, considers appropriate.

## **8. Absence or incapacity**

(1) If a member of the Tribunal is absent or unable to perform the functions of his or her office, or if there is a vacancy in the Tribunal, the Judicial and Legal Services Commission may, after consultation with Cabinet and the Commission, appoint another person to act temporarily in place of the member.

(2) An appointment made pursuant to sub regulation (1) shall be in accordance with the constitution of the Commission stipulated in regulation 3.

## **9. Publication of changes in membership**

Cabinet shall publish in the *Gazette* the appointment of any member of the Tribunal and the termination of office of person as a member, whether by death, resignation, removal, effluxion of time or otherwise.

## **10. Secretary**

(1) The Tribunal shall appoint a Secretary.

(2) The Secretary shall keep a written record of all proceedings of the Tribunal, which shall be confirmed by the Chairperson.

## **11. Remuneration**

A member of the Tribunal is entitled to be paid remuneration per sitting based on the rate of an international legal consultant performing similar duties.

## **12. Sittings and quorum**

(1) The Tribunal shall sit in Saint Lucia at the times necessary or expedient for the discharge of its functions.

(2) Subject to sub regulation (3), 3 members of the Tribunal constitute a quorum.

(3) A member of the Tribunal shall, as soon as is practicable, inform the Chairperson of any matter in which he or she has, either directly or indirectly, personally or by his or her spouse, partner, business associate or company, any pecuniary or business interest and that member shall take no part, directly or indirectly, in any hearing, deliberation or decision by the Tribunal on that matter.

## **13. Powers of Tribunal**

(1) The Tribunal has, with respect to the appearance, swearing and examination of witnesses, the production and inspection of documents, the enforcement of orders and other matters -necessary or proper for the due exercise of their jurisdiction, all the powers, rights and privileges that are vested in a superior court of record and, without limiting the generality of the foregoing, the Tribunal may—

(a) issue a summons requiring a person to –

(i) appear at the time and place stated in the summons to testify to all matters within the person's knowledge relative to any subject matter before the Appeal Tribunal, and

(ii) bring and produce any document, book or paper including electronic media in the person's possession or under the person's control relative to that subject matter;

(b) administer oaths and examine any person on oath; and

(c) during the hearing, receive evidence that they consider;

(d) relevant and trustworthy and are not bound by any legal or technical rules of evidence.

(2) Subject to the provisions of these Regulations, the Tribunal shall have the power to regulate its own proceedings.

(3) The Tribunal shall not conduct a detailed economic or technical review of a decision unless it first finds that there is reasonable probability that the decision being appealed is erroneous.

(4) The Tribunal may choose to conduct a detailed review of economic, financial or technical component of a decision before arriving at a final decision.

## **14. Expert advice**

The Tribunal may retain the services of legal, economic, financial or technical consultants to advise it on any matter relating to the discharge of its functions.

## **15. Confidentiality**

(1) A member of the Tribunal shall at all times preserve and aid in preserving confidentiality with regard to all matters coming to his or her knowledge in the performance of his or her duties.

(2) Except for the performance of his or her duties or under legal obligation, no member, of the Tribunal shall communicate any confidential matter to any person or, unless under legal obligation, grant to any person access to any records in the possession, custody or control of the Tribunal.

## **16. Validity of proceedings**

The validity of any proceedings of the Tribunal shall not be affected by any vacancy in its membership or by any defect in the appointment of any of its members.

# **PART 3 APPEAL PROCEDURE**

## **17. Application for appeal**

(1) An appellant may appeal in writing to the Tribunal.

(2) The application for appeal shall be signed by the appellant and "copies of the application for appeal shall be submitted to the Secretary.

(3) An application for appeal shall be dated as of the day on which it is signed and shall state—

- (a) the name of the appellant;
- (b) the appellant's office, if any;
- (c) the date of the decision from which the appellant desires to appeal;
- (d) the person or authority from whose decision the appellant desires to appeal;
- (e) the date on which the appellant received application for the decision he or she desires to appeal;
- (f) the decision which the appellant seeks from the Tribunal;
- (g) an address to which any notice or other document may be sent to the appellant from the Tribunal; and
- (h) the reasons in detail for the appeal and materials in support of the petition.

(4) The secretary shall publish in the *Gazette* an address where an application for appeal may be given under these Regulations.

(5) An application for appeal shall be given to the secretary either personally or by sending it by registered mail to the address published under sub regulation (4).

## **18. Transmission of the appeal documents**

The secretary shall send one copy of the application for appeal and any other document that is relevant to the appeal to each of the following persons—

- (a) the members of the Tribunal,
- (b) the person whose decision is being appealed; and
- (c) any other person who was a party to the proceedings in which the decision was taken.

## **19. Hearing**

(1) At least 7 days before the date fixed for the hearing of an appeal, the secretary to the Tribunal shall advise the parties by notice in writing of the date, and the place at which the appeal has been set down for hearing.

(2) At a hearing by the Tribunal the parties are entitled to appear in person or by a representative.

(3) Subject to sub regulation (4), the hearing of the Tribunal shall be public.

(4) The Tribunal may, on application, take any measures or make any order that the Tribunal considers necessary to ensure the confidentiality of the proceedings if it is satisfied that financial or personal or other matters may be disclosed and are of such a nature that the desirability of avoiding public disclosure of those matters in the interest of any person affected or in the public interest, outweighs the desirability of adhering to the principle that the inquiry be conducted in public.

## **20. Decisions**

(1) After considering the evidence and any representations made on behalf of any party to the proceedings, the Tribunal may affirm, set aside or vary, the decision appealed, make any other decision which the person could have made or direct the person to retake the decision after taking into consideration the conclusion of the Tribunal on any point.

(2) The Tribunal shall publish the decision within a period of 9 days of the appeal, or such extended period that the parties decide by mutual agreement.

(3) The decisions of the Tribunal is by a majority of votes of those members present and voting and, in addition to an original vote, the Chairperson has a second or casting vote in any case in which the voting is equal.

(4) The decisions of the Tribunal shall be authenticated by the signature of the Chairperson and the secretary.

## **21. Costs**

The Tribunal may assess its costs of processing an appeal against the losing party if it concludes that unreasonable conduct by that party contributed to the costs of the appeal and if the Tribunal makes no such award, the costs of the Tribunal shall be paid from the Water and Sewerage Fund established under section 53 of the Act.

## **22. Decision final**

The Tribunal has exclusive jurisdiction to hear and determine all questions of fact or law in relation to any matter over which it is given jurisdiction and, subject to judicial review, decisions of the Tribunal are final and shall not be appealed.

# **PART 4 ENFORCEMENT AND OFFENCES**

## **23. Filing of order**

(1) The Tribunal may file in the High Court for immediate registration a copy of the order, exclusive of any reasons for it, but the order shall not be filed until at least 30 days after the day on which the order was made has elapsed, or the day provided in the order for compliance with it, whichever is the later.

(2) On filing in the High Court, an order shall be registered in that Court and, when registered, it shall have the same force and effect, and all proceedings may be taken, as if the order were a judgement obtained in that Court.

## **24. Offence**

(1) A person shall not obstruct the Tribunal or a person acting on behalf or under its direction in the performance of its functions under this Act.

(2) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of \$5000.00 or imprisonment for a term not exceeding 3 months.

## **25. Perjury**

(1) A person is liable to be prosecuted for perjury under the Criminal Code for a false statement made to the Tribunal.

(2) For the purpose of this regulation and the Criminal Code the Tribunal is a Court within the meaning of the Criminal Code.

---

## **Water and Sewerage (Tariff) Regulations – Section 97**

### **(Statutory Instruments 106/2008 and 156/2020 and Act 3 of 2016)**

Statutory Instrument 106/2008 .. in force 19 November 2008

Amended by Act 3 of 2016 .. in force 16 December 2015

Statutory Instrument 156/2020 .. in force 6 October 2020

### **ARRANGEMENT OF REGULATIONS**

#### **PART 1 PRELIMINARY**

1. Citation
2. Interpretation
3. Water and sewerage rates

#### **PART 2 INDEXATION**

4. Indexation adjustment
5. Indexation procedure
6. Amendment of indexation formula

#### **PART 3 TRIENNIAL TARIFF REVIEW**

7. Triennial tariff review adjustment
8. Triennial tariff review procedures
9. Accounting information
10. Reviewing forecast capital expenditure
11. Adjustments to actual investment
12. Adjustments to forecast investment
13. Reviewing depreciation
14. Reviewing operations and maintenance expenses
15. Adjustment to allowable operating and maintenance expenditure
16. Additional parameters for setting of tariffs
17. Publishing the results of the review

#### **PART 4 EXTRAORDINARY TARIFF REVIEW**

18. Extraordinary tariff review
  19. Extraordinary tariff review Process
  20. Publication of results
- Schedule 1

## **WATER AND SEWERAGE (TARIFF) REGULATIONS – SECTION 97**

Commencement [19 November 2008]

### **PART 1 PRELIMINARY**

#### **1. Citation**

These Regulations may be cited as the Water and Sewerage (Tariff) Regulations.

#### **2. Interpretation**

In these Regulations—

“**Act**” means the Water and Sewerage Act;

“**allowed real revenue**” means the total revenue that the service licensee is allowed to earn from tariffs, determined by the method outlined in paragraph 2 of Schedule 3;

“**allowable rate of return**” means the rate of return the service licensee may earn on its investment, as defined in paragraph 1.2 of Schedule 3;

“**appeals tribunal**” has the same meaning as in the Act;

“**capital expenditure**” means expenditure on new assets, including rehabilitation and replacement of existing assets, improvements to meet new regulatory requirements, and new infrastructure;

“**Commission**” has the same meaning as in the Act;

“**depreciation**” means annual accounting charge for wear, tear and obsolescence of fixed assets, calculated in accordance with paragraph 1.3 of Schedule 3;

“**dispute**” means a disagreement between a service licensee and the Commission;

“**cost**” means the increase in cost from producing one output or serving one group of customers in addition to another such that a service licensee, producing two services A and B, the incremental cost of B is the additional cost of producing B, given that the firm is already producing A;

“**K factor**” means an adjustment factor, aimed at keeping tariffs in line with the cost of service as efficiency increases and investment grows, and smoothing tariff changes over time and is determined according to the process outlined in paragraph 2 of Schedule 3;

“**legacy asset value**” (*Deleted by S.I. 156/2020*)

“**net present value**” means the discounted value of the expected benefits of a project, less the discounted value of the expected costs, calculated as specified in paragraph 2 of Schedule 3;

“**operating and maintenance expenditure**” means expenditure incurred through operations and maintenance activities in providing the services, calculated as outlined in paragraph 1.4 of Schedule 3;

**"reasonable cost of service"** means the total cost the utility would incur in providing the required services efficiently and is made up of the components defined in paragraph 1 of Schedule 3;

**"regulatory asset value"** means the value of assets utilized by the service licensee in providing the service, calculated as specified in paragraph 1.1 of Schedule 3; **"rate of return"** means the annual growth in the service licensee's profits, expressed as a percentage of the original investment in the service licensee, calculated as specified in paragraph 1.2 of Schedule 3;

**"rising block tariffs"** means some water is available at low unit prices, and additional water at progressively higher prices that are not subsidized;

**"service"** has the same meaning as in the Act;

**"standalone cost"** means the hypothetical cost of producing each output or serving each customer independently such that a service licensee producing two services A and B, the standalone cost of A is the cost that the firm would incur producing A, but not B;

**"tariff revenue"** means the revenue earned by a service licensee from tariffs;

**"tariff review period"** means the period for which a new tariff is set following a triennial or an extraordinary tariff review;

**"used and useful"** means that an asset is considered used and useful when it is currently used to provide service, is not oversized or clearly inefficient, and is currently contributing to the provision of the service;

**"working capital"** means the difference between current assets and current liabilities.

### **3. Water and sewerage rates**

For water and sewerage services supplied under its service licence, a service licensee shall charge the rates prescribed in Schedule 1 as adjusted, when required in accordance with Parts 1, 2 and 3 of these Regulations.

## **PART 2 INDEXATION**

### **4. Indexation adjustment**

(1) A service licensee is entitled to adjust its water and sewerage rates annually in accordance with the indexation formula in Schedule 2 to compensate it for the impact of inflation on costs and to allow for efficiency gains and capital investment.

(2) Indices specified in Schedule 2 are to be the latest index available at the time of the review.

(3) The indexation formula shall be applied equally to all service licensees' tariff classes.

### **5. Indexation procedure**

(1) Two months prior to the start of each year, the service licensee shall apply the indexation formula to tariffs, and notify the Commission of the proposed new tariffs, the corresponding indices and the effective date.

(2) The Commission may amend the proposed new tariffs if it considers that an error has been made in calculating the tariffs.

(3) Where the commission accepts the tariffs submitted in accordance with this regulation, it shall publish the new tariffs, the corresponding indices and the effective date in the Gazette and 2 newspapers in weekly circulation in Saint Lucia, at least one month prior to the effective date.

(4) The service licensee shall implement the new tariffs no earlier than the effective date.

(5) The service licensee may object to the new tariffs if it believes that the Commission has erred and in the event of an objection, the Commission and the service licensee shall resolve the dispute in accordance with the appeals process outlined under the Act.

(6) In the event of a dispute that extends beyond the effective date of the new tariffs, the service licensee's tariff shall be implemented until the dispute is resolved and if the decision is given against the service licensee, it shall immediately reduce tariffs to the agreed level and issue a customer refund.

## **6. Amendment of indexation formula**

(1) Subject to subregulation (3) pursuant to a triennial tariff review referred to in regulation 7, the Commission may amend Schedule 2 to change the indexation formula if it considers that the existing formula is no longer an accurate reflection of a service licensee's input costs.

(2) The input indices shall be regularly published or easily observable.

(3) The new indexation formula shall be a better reflection of changes in cost than the existing formula.

## **PART 3 TRIENNIAL TARIFF REVIEW**

## **7. Triennial tariff review adjustment**

In a triennial tariff review, the Commission shall set tariffs using the triennial tariff adjustment procedure in Schedule 3 so that—

- (a) the net present value of the tariff revenue earned by the service licensee over the following 3 years is equal to the net present value of its efficiently incurred costs plus a fair and reasonable return on capital over the same period of time, in accordance with the following—

$$\text{NPV (C)} = \text{NPV (R)}$$

Where:

NPV means net present value

C = reasonable cost of service for the tariff review period

R = Total revenue earned by the service licensee from supplying services over the tariff review period; and

- (b) tariff increases are smoothed by applying a K Factor.

## **8. Triennial tariff review procedures**

(1) Four months prior to the commencement of a triennial tariff review period, a service licensee shall submit to the Commission its proposed tariff rates, estimated revenue requirement, and sufficient supporting information to enable the Commission to verify that the proposed tariff rates reflect reasonably incurred costs of service and a reasonable return on capital.

(2) Supporting information shall include—

- (a) a business plan with planned investment and financial forecasts for at least the following 9 years;
- (b) a demand forecast for at least the following nine years;



- (c) changes to the depreciation schedule, as specified in paragraph 1.3 of Schedule 3;
- (d) audited accounts referred to in regulation 9.

## **9. Accounting information**

(1) For the purpose of the triennial review, a service licensee shall prepare audited accounts in accordance with International Financial Reporting Standards, or any other standards specified by the Commission but the Commission may alternatively specify additional schedules to fulfil specific requirements, once it does not override the International Financial Reporting Standards.

(2) The service licensee shall appoint an external auditor to audit the accounts and shall ensure that the auditor submits the following to the Commission—

- (a) a note indicating that the auditor acknowledges the intended use of the accounts by the Commission;
- (b) a report, in respect of each of the accounting statements submitted, stating whether in the Auditor's opinion—
  - (i) the service licensee has kept proper accounting records, in a form that enables identification of the revenues, costs, assets and liabilities of providing the services, and
  - (ii) the set of accounting statements submitted represents a true and fair view of the revenues, costs, assets and liabilities of the service licensee incurred in providing the services.

## **10. Reviewing forecast capital expenditure**

The Commission shall carry out the following steps in reviewing the service licensee's capital expenditure requirements—

- (a) review the service licensee's demand forecast and service standards to define the service capabilities required of the network;
- (b) assess the condition of the infrastructure, including its adequacy for service and how well it has been maintained;
- (c) benchmark asset utilization and maintenance levels against best practices;
- (d) identify the required system upgrades, by comparing the service licensee's actual service capabilities and the required service capabilities;
- (e) review the efficiency of the proposed capital expenditure programme to ensure that the projects are the least cost solution, technically sound, and reflect reasonable post estimates; and
- (f) subject to regulation 12, make any necessary adjustments to the forecast capital expenditure.

## **11. Adjustments to actual investment**

(1) The Commission shall make adjustments to actual investment, adjusting the opening assets value on the basis of actual assets that are considered used and useful but if an asset is not considered used and useful, the Commission will exclude it from the asset value.

(2) Investments are to be automatically included in the Commission's calculation if they are—

- (a) subject to a plan already approved by the Commission; and
- (b) procured on a competitive basis.

## **12. Adjustments to forecast investment**

(1) The Commission shall make adjustments to forecast investment after considering all forecast capital expenditure costs that are reasonably forecasted to be incurred by the service licensee in providing services to consumers.

(2) The service licensee shall provide the Commission with information on its investment plans, projected capital expenditure for the tariff review period, and such other information as the Commission reasonably requests.

(3) Approval of investment plans and projected cash flows by the Commission shall be in respect of a period of at least 9 years.

(4) In the event that a dispute arises between a service licensee and the Commission on the allowable investment, the appeals process outlined under the Act applies.

## **13. Reviewing depreciation**

(1) The Commission will consider all depreciation costs that are reasonably incurred by the service licensee while providing services to consumers.

(2) The service licensee shall submit an initial depreciation schedule to the Commission for approval along with the first triennial tariff review application and for future reviews, the Commission shall approve changes to the depreciation schedule only.

## **14. Reviewing operations and maintenance expenses**

(1) The Commission shall review the service licensee's forecast and historic operating and maintenance costs, as well as its forecast demand to ensure that this represents an accurate view of the state of the business and that the costs are reasonable.

(2) The Commission shall determine the efficiency of the operating and maintenance costs using any combination of the following methods—

- (a) compare the forecast operating and maintenance costs with historical costs and forecast performance;
- (b) review a statement of justification for the forecast operating and maintenance costs submitted by the service licensee;
- (c) benchmark operating and maintenance costs and performance on key service indicators against other utilities of a similar nature, operating in similar conditions;
- (d) review the service licensee's performance on key performance indicators and against agreed service or efficiency targets;
- (e) request an independent technical audit to assess service levels and associated costs.

## **15. Adjustment to allowable operating and maintenance expenditure**

(1) The Commission shall adjust the forecast operating and maintenance expenditure accordingly if the Commission finds that the service license is inefficient.

(2) The Commission may make the adjustment based on immediate achievement of efficient cost levels or based on improved efficiency levels over a period of time that the Commission specifies, whichever the Commission considers reasonable.

(3) In the event that a dispute arises between the service licensee and the Commission on the allowable operating and maintenance expenditure, the appeals process outlined in the Act applies.

## **16. Additional parameters for setting of tariffs**

In addition to the principles set out in section 78 of the Act, the tariffs shall accord with the following:

- (a) the tariff may contain different tariff classes;
- (b) each customer within a tariff class should be charged the same tariff;
- (c) a customer is not to be charged more than the standalone cost, or less than the incremental cost of providing service;
- (d) all customers in the same class shall be charged the same tariff unless different costs apply to certain customers within this class; and
- (e) rising block tariffs are permitted if applied equally to all customers in the same class.

## **17. Publishing the results of the review**

(1) The Commission shall review the tariff review application and publish its results not later than 60 days before the end of the triennial period for a triennial tariff review.

(2) In default of publication within this period, the new tariffs in the application are deemed effective.

(3) The Commission shall publish its report stipulating the new tariff in the Gazette and in at least 2 newspapers in general weekly circulation in Saint Lucia.

(4) If the service licensee's proposal is rejected by the Commission, the service licensee may submit a revised proposal within 14 days of notification of the rejection.

(5) If the service licensee does not submit a revised proposal, the tariff already agreed for the existing period shall continue to apply.

(6) In the event that a dispute arises between the service licensee and the Commission, both parties shall make an effort to resolve this through mutual consultation and negotiation.

(7) Any disputes that cannot be resolved through mutual consultation and negotiation shall be referred to the Appeals Tribunal.

## **PART 4 EXTRAORDINARY TARIFF REVIEW**

### **18. Extraordinary tariff review**

If an extraordinary event occurs, extraordinary tariff review will compensate—

- (a) the service licensee with a tariff increase, for any losses in revenue or increases in the cost of providing service;
- (b) customers with a tariff decrease, for increases in revenue, or decreases in the cost of providing service.

### **19. Extraordinary tariff review Process**

(1) The service licensee may, at any time, request the Commission to consider circumstances that the service licensee believes constitute grounds for an extraordinary tariff review by submitting information on the following—

- (a) the event giving rise to the extraordinary tariff review;
- (b) the valuation of the impact of the events on the service licensee's historical and future cash flows; and

- (c) the calculation of the magnitude of the extraordinary tariff review requested.

(2) The Commission may also, at any time, notify the service licensee of circumstances that the Commission believes constitutes grounds for an extraordinary tariff review and shall notify the service licensee of the extraordinary event, and request that the service licensee submit the information in subregulation (1).

(3) The Commission shall determine whether an extraordinary event has occurred or will occur, by taking into account all information available at the time, and by making reasonable projections of all factors relevant to the service licensee's future cash flow and the Commission may employ the services of technical or other experts in making this determination.

(4) The Commission shall—

- (a) calculate the change in the service licensee's cash flows as a result of the extraordinary event;
- (b) identify the annual changes (increases or decreases) in operating and maintenance costs and capital expenditure over the remainder of the triennial period;
- (c) add or subtract these costs from the reasonable cost of service calculation for the remainder of the triennial period, and adjust the allowed real revenue requirement and tariff scheme accordingly;
- (d) take into account in calculating the service licensee's allowed real revenue at the next triennial tariff adjustment if all additional costs extend beyond the end of the triennial period.

(5) If the service licensee objects to the Commission's determination, it may refer the matter to the Appeals Tribunal.

## 20. Publication of results

The Commission shall publish its determination stipulating the revised tariff scheme in the Gazette and in at least 2 newspapers in general weekly circulation in Saint Lucia.

### Schedule 1

(Regulation 3)

#### WATER AND SEWERAGE RATES

##### WATER RATES

	Tariff
Domestic	
First 9.09218m <sup>3</sup>	\$8.22
In excess of 13.63828m <sup>3</sup>	\$15.61
Minimum charge 0 to 9.09218m <sup>3</sup>	\$16.44
Commercial/Industry per (4.55409m <sup>3</sup> )	\$20.66
Hotel per (4.55409m <sup>3</sup> )	\$22.02
Government per (4.55409m <sup>3</sup> )	\$12.82

**CONNECTION FEE•** Variable, based on site conditions with respect to existing service networks and schemes.

*(Substituted by Act 3 of 2016)*

## Schedule 2

(Regulation 4)

### INDEXATION FORMULA

The tariff will be adjusted annually according to the following indexation formula to reflect changes in the weighted average of specific input prices:

$$T_t = T_{t-1} * [1 + (0.4\Delta L + 0.3\Delta E + 0.2\Delta I + 0.1\Delta CPI) + K]$$

Where:

- T = Tariff
- t = Year in which the adjustments will be implemented (current year),
- t-1 = Year prior to the year in which the adjustments will be implemented
- L = Wage Index, measured by the wage rate for the lowest grade of worker at a similar utility company locally or regionally approved for this purpose by the Commission.
- $\Delta L$  = Change in wage index, as calculated by:  $(L_t - L_{(t-1)})/L_{(t-1)}$
- E = Tariff for high voltage electricity supply (per kWh)
- $\Delta E$  = Change in electricity tariffs, as calculated by:  $(E_t - E_{(t-1)})/E_{(t-1)}$
- I = Industrial index weighting for maintenance costs as measured by changes to the following categories in the US Department of Labor Producer Price Index. (This index does not take into account currency fluctuations and must be adjusted during a triennial tariff review to provide for exchange rate fluctuation if the currency in Saint Lucia is no longer pegged to the US Dollar):

Abbr.	Industry Category	Product Category	Change Calculated by:
P	Pump and pumping equipment mfg	Domestic water Systems	$\Delta P = (P_t - P_{t-1})/P_{t-1}$
FM	Total fluid meter and counting device mfg	Liquid Meters	$\Delta FM = (FM_t - FM_{t-1})/FM_{t-1}$

- $\Delta I$  = Change in Industrial Index, as calculated by:  $(\Delta I + \Delta FM)/2$
- CPI = Saint Lucia Consumer Price Index, as published by the Saint Lucia Department of Statistics
- $\Delta CPI$  = Change in CPI, as calculated by:  $(CPI_t - CPI_{t-1})/CPI_{t-1}$
- K = K factor. This is to be determined by the Commission during each triennial tariff review.

All indices (t) are the latest available indices at the time of the review and t-1 = the index applied one year before t.

The Commission shall apply the annual tariff adjustment formula equally to all tariff classes in the Service Licensee's Tariff Scheme.

*(Substituted by Act 3 of 2016 and by S.I. 156/2020)*

## Schedule 3

(Regulation 7)

### TRIENNIAL TARIFF ADJUSTMENT

The triennial tariff adjustment procedure comprises three steps:

1. Defining the service licensee's reasonable cost of service
2. Determining the allowed real revenue for each year
3. Setting the tariff rates.

## 1. Defining the reasonable cost of service

For each year in the tariff review period, the reasonable cost of service is measured by applying the following formula:

$$C = (RAV \times RoR) + Dep + Opex$$

Where:

C = Reasonable Cost of Service

RAV = Regulatory Asset Value (1.1)

RoR = Allowable Rate of Return (1.2)

Dep = Depreciation (1.3)

Opex = Operating and Maintenance Expenditure based on Current Prices (1.4)

### 1.1 Determining the Regulatory Asset Value

The Regulatory Asset Value is to be determined using the following formula:

$$\text{*Regulatory Asset Value} = \text{Opening Assets} + \text{Forecast Capital Expenditure} - \text{Forecast Depreciation} - \text{Forecast Customer and Government Contributions}$$

Where:

Opening Assets = Regulatory Asset Value at the start of the Tariff Review Period as determined below

Forecast Capital Expenditure = New assets forecast to be created annually, after the start of the Tariff Review Period, including rehabilitation and maintenance of existing assets and new infrastructure

Forecast Depreciation = Annual amount for depreciation forecast from the start of the Tariff Review Period

Forecast Customer and Government Contributions = Assets forecast to be paid for by the customers or by Government over the tariff review period (e.g. connection assets)

\*All assets that are used in providing the service to customers are to be considered service licensee's assets. Assets are to be valued on a historic cost basis.

#### Opening Asset Value

For the first triennial tariff review application, opening assets will refer to a historic cost-based value of the assets of the service licensee in the year of the tariff review application. This value will be determined by a financial advisor, approved by the Commission, engaged by the utility.

In subsequent tariff reviews, the Opening Asset value is to be calculated according to the following formula:

$$\text{Opening Asset} = OA_{t-3}$$

$$\begin{aligned}
& + \sum_{1}^{t=3} \text{Actual Capital Expenditure} \\
& - \sum_{1}^{t=3} \text{Actual Depreciation} \\
& - \sum_{1}^{t=3} \text{Actual Customer and Government Contributions}
\end{aligned}$$

t = Year of the Triennial Tariff Review

t-3 = Final year in the previous Tariff Review Period

OA<sub>t-3</sub> = Opening Assets in the previous Tariff Review Period.

$$\sum_{1}^{t=3} \text{Actual Capital Expenditure}$$

= Actual new assets created, including rehabilitation Actual Capital Expenditure and maintenance of existing assets and new infrastructure over the past 3 years, adjusted under regulation 11;

$$\sum_{1}^{t=3} \text{Actual Depreciation}$$

= Actual annual amount for depreciation recorded Actual Depreciation over the past 3 years

$$\sum_{1}^{t=3} \text{Actual Customer and Government Contributions}$$

= Actual assets paid for by the customers and Actual Customer and Government by Contributions over the Government Contributions past 3 years (e.g. connection assets).

## 1.2 Allowable Rate of Return

The service licensee's allowable rate of return must be calculated according to the following formula:

$$\text{RoR} = \text{Bank Rate} + Q$$

Where:

RoR = Pre-tax Rate of Return

Bank Rate = Average twelve months deposit rate paid by commercial banks in Saint Lucia

Q = Additional return required by investors for an investment with similar risk characteristics, calculated as described below.

Calculating Q

Q is to be calculated at every third triennial tariff review in the following way:

1. In year one, a financial advisor, approved by the Commission, advises on the full post-tax equity return on investment in businesses with commensurate risk levels to the service licensee, an applicable gearing or leverage ratio, and an estimated debt risk premium.

At future triennial tariff reviews, the Commission shall review the estimated debt risk premium if there is sufficient evidence that existing levels are inadequate or excessive.

2. The Commission shall calculate Q according to the following formula:

$$Q = \frac{g(1-t)d + (1-g)e}{(1-t)} - \text{Bank Rate}$$

Where:

- g = Gearing or leverage ratio defined in step one
- d = Debt risk premium defined in step one + the Bank Rate
- e = Post-tax equity return defined in step one
- t = Saint Lucia's corporate tax rate

Bank Rate = Average twelve months deposit rate paid by commercial banks in Saint Lucia.

### 1.3 Depreciation

Assets are to be depreciated on a straight line basis, according to a depreciation schedule.

Depreciation must be in accordance with generally accepted accounting principles and practices as used by the service licensee for accounting purposes, or as otherwise specified by the Commission.

### 1.4 Allowable Operating and Maintenance Expenditure

Allowable Operating and Maintenance Expenditure will include all operation and maintenance costs that are reasonably incurred by the service licensee in providing services to consumers.

Expenses incurred in building customer awareness about aspects of service provision, including billing and tariff information, information on customer obligations and liabilities, complaints processes and customer rights will be included in operations and maintenance expenditure if reasonable and justified.

Goodwill costs, brand building, sponsorships, and any expenses that are incurred in activities other than providing services to Saint Lucian customers will be excluded from the allowable Operating and Maintenance Expenditure.

## 2. Determining the Allowed Real Revenue\*

The Commission shall set the service licensee's Allowed Real Revenue for the next three years in order that: NPV (C) = NPV (R)

Where:

NPV means Net Present Value

C = Reasonable Cost of Service for the Tariff Review Period

R = Total revenue earned by the service licensee from supplying services over the Tariff Review Period

Tariff increases are smoothed by applying a K Factor.



NPV (C) will be calculated according to the following formula:

$$NPV (C) = \sum_{t=1}^3 \frac{C_t}{(1+r)^t}$$

Where:

t = year

C<sub>t</sub> = Reasonable Cost of Service in year t

r = Rate of Return (calculated as specified in section 1.2) Tariffs in year t (in current prices)

NPV (R) will be calculated according to this formula:

$$NPV (R) = \sum_{t=1}^3 \frac{RT_t \times Q_t}{(1+r)^t}$$

Where:

t = year

RT<sub>t</sub> = Tariffs in year t (in current prices)

Q<sub>t</sub> = Forecast demand in year t.

### **K Factor**

The K Factor to be applied to each of the three years of the tariff review period, is to be determined as follows:

1. The service licensee's total revenue for each year in the triennial period must be set so that it equals the reasonable cost of service for the same year.
2. The tariff is then to be calculated by dividing the total revenue, by the forecast demand for each year.
3. If the resulting tariff fluctuates significantly from year-to-year, the changes are to be smoothed out so that NPV(C) is still equal to NPV(R) over the triennial period.
4. The smoothed change in tariffs over the triennial period is the K factor for each year of the tariff review period.

\* Ensuring the service licensee's ability to finance investment in setting the allowed revenue, and smoothing changes in tariffs over the triennial period, the Commission shall ensure that given reasonable costs and financing requirements, the service licensee is able to meet reasonable debt covenants, including interest and debt service coverage ratios.

### **3. Setting the tariff rates**

The service licensee's tariff review application must include proposed tariffs for the Commission's approval. The Commission shall review the proposed tariffs taking the following into account: the service licensee's allowed real revenue, the principles as stated in Part 3, Division 5 of the Act and Part 3 of the Water and Sewerage (Tariff) Regulations.

*(Substituted by S.I. 156/2020)*

---

## **Water and Sewerage (Water Resource Management) Regulations – Section 97**

### **(Statutory Instruments 7/2009 and Act 3 of 2016)**

Statutory Instrument 7/2009 .. in force 9 February 2009

Amended by Act 3 of 2016 in force 16 December 2015

#### **ARRANGEMENT OF REGULATIONS**

1. Citation
  2. Interpretation
  3. Inventory of water resources
  4. Right to enter to conduct surveys
  5. Ownership of Information
  6. Development of watershed management plans
  7. Coordination with other agencies
  8. Public consultation and participation
  9. Approval of watershed management plans
  10. Declaration of gathering grounds and protected areas
  11. Preparation of water master plan
  12. Approval of water master plan
  13. Review and revision of the plan
  14. Conduct of investigations
  15. Serious deficiency in supply
  16. Form of application for licence
  17. Notification of grant or refusal of licence
  18. Form of licence
  19. Form of application for permits
  20. Notification of grant or refusal of permit
  21. Form of permits
  22. Form of application for a hearing
  23. Records to be kept
  24. Fees
- Schedule

---

## **WATER AND SEWERAGE (WATER RESOURCE MANAGEMENT) REGULATIONS – SECTION 97**

Commencement [9 February 2009]

### **1. Citation**

These Regulations may be cited as the Water and Sewerage (Water Resource Management) Regulations.

### **2. Interpretation**

In these Regulations—

“**Act**” means the Water and Sewerage Act;

“**Agency**” means the Water Resource Management Agency established under section 3 of the Act;

“**emergency**” means a water-related emergency within the meaning of section 10 of the Act;

“**protected area**” means a defined area of land around a gathering ground specified in an order made under section 9 of the Act;

“**register**” means the register compiled in accordance with regulation 23;

**“water master plan”** means a national water master plan and allocation scheme prepared and approved in accordance these Regulations;

**“watershed”** means the catchment area or drainage basin of a watercourse or a system of watercourses with a common outlet;

**“watershed management plan”** means a watershed management plan prepared and approved in accordance with these Regulations.

### **3. Inventory of water resources**

(1) The Agency may do anything necessary or expedient for or in connection with the performance of the functions and exercise of the powers conferred on it by section 4(1)(b) and (f) of the Act.

(2) Without prejudice to the generality of subregulation (1), the Agency must coordinate the activities of all public authorities in relation to—

- (a) the collection, collation and analysis of data concerning the occurrence, flow, characteristics, quality and use of water;
- (b) the systematic gauging or recording of rainfall and of the volume, flow and quality of water;
- (c) the construction, operation and removal of meteorological and hydrological gauging, recording and monitoring stations and investigation and monitoring bores; and
- (d) the sampling and analysis of water.

(3) The Agency must, in collaboration with the Ministry responsible for Health and any other public agency with statutory responsibilities related to the monitoring and control of waste, collect and analyse data concerning the generation of waste and the discharge of waste into the environment.

### **4. Right to enter to conduct surveys**

(1) Where, in the opinion of the Agency, it is necessary or desirable for the purpose of investigating, controlling, conserving, protecting or managing water resources in Saint Lucia, the Agency or any person acting by its authority may enter upon any land in or adjoining any watercourse for the purpose of setting up, examining, maintaining, repairing, replacing or removing any gauge, structure or appliance for measuring the flow or level of water in that watercourse.

(2) Where, in the opinion of the Agency, it is necessary or desirable for the purpose of investigating, controlling, conserving, protecting or managing water resources in Saint Lucia, the Agency or any person acting by its authority may cause a bore and any structure or apparatus to be, drilled, excavated, constructed or laid down on, over or under any land overlying or adjoining any aquifer for the purpose of measuring the flow or level of groundwater in that aquifer and enter upon that land for the purpose of monitoring, servicing, repairing, replacing or removing any works or apparatus.

(3) When the Agency or any person acting by its authority proposes to enter on privately-owned land under subregulation (1) or (2), the Agency must give at least 24 hours notice of its intention to do so to the owner of that land and any person authorized by the Agency to enter on the land must show some form of identification and authorization to the occupier of the land.

(4) Notwithstanding the provisions of subregulation (3), in any case where, in the opinion of the Agency, it is necessary or desirable to enter upon privately-owned land immediately to carry out emergency work to maintain or repair any structure or apparatus, any person authorized by the Agency to enter on the land may enter upon such land without giving prior notice to the owner, on showing some form of identification and authorization to the occupier.

(5) Where a person suffers loss, damage or injury caused by the exercise of the powers conferred under subregulation (2), the Agency must pay compensation to that person by way of a sum of money payable or a fixed sum of money payable periodically so long as the use or occupation of any privately-owned land by the Agency continues, to be assessed in default of determination by agreement in accordance with the provisions of the Land Acquisition Act.

(6) A claim for compensation made under subregulation (5) will have no effect unless it is made before the end of a period of 6 months beginning on the date on which the loss, damage or injury to which it relates occurred.

(7) For the avoidance of doubt, it is hereby declared that nothing in this regulation confers any right to notice from the Agency or the payment of compensation on any person other than the owner or a legitimate occupier of privately-owned land.

## **5. Ownership of Information**

(1) Any water resources management information collected by the Agency in the performance of the duties and exercise of the powers imposed or conferred by this Part is the intellectual property of the Government of Saint Lucia and no person may utilise or publish any data or information without prior authorisation from the Agency and on payment of fees for the right to do so set by the Agency.

(2) The Agency must make any water resource management information that it collects, collates and analyses in the performance of the duties and exercise of the powers conferred by this Part available to any person who wants access to that information, on payment of a reasonable charge for such information having regard to the costs of its collection, collation and analysis.

## **6. Development of watershed management plans**

A watershed management plan developed by the Agency under section 4(1)(g) of the Act—

- (a) shall be prepared for all the watersheds identified in the water master plan in the order of priority specified in it;
- (b) may make provision for—
  - (i) the prohibition, regulation or control of any activity within the area which, in the opinion of the Agency, it is desirable to prohibit, regulate or control to manage, conserve or enhance water resources,
  - (ii) the carrying out of any works which, in the opinion of the Agency are desirable to prevent or mitigate the effects of erosion, drainage, pollution or flooding,
  - (iii) the designation of any area of land to be declared as gathering grounds or areas around gathering grounds in need of protection, and
  - (iv) the preservation of the environment and particularly the natural attributes of gathering grounds and protected areas.

## **7. Coordination with other agencies**

(1) In the course of preparing a watershed management plan, the Agency must consult with another agency of the Government having an interest in any matter related to watershed management, including but not limited to the management of Crown lands, forests and other protected areas, agriculture, fisheries, environmental protection and the development of land; and any *bona fide* non-governmental organisation having demonstrated an interest in water resource management.

(2) Where in the opinion of the Agency it is necessary or desirable for water resources management purposes, the Agency may, after consultation with the agency

responsible for administration of the Forest, Soil and Water Conservation Act designate in a watershed management plan any area of Crown Land to be declared as a Forest Reserve or Prohibited Area, and any area of land other than Crown land to be declared as a Protected Forest, under that Act.

(3) Where in the opinion of the Agency it is necessary or desirable for water resources management purposes, the Agency may, after consultation with the agency responsible for the administration of the Land Conservation and Improvement Act, designate in a watershed management plan any area of land to be declared a Conservation Area or placed under a Protection Order under that Act.

(4) Where in the opinion of the Agency it is necessary or desirable for water resources management purposes, the Agency may, after consultation with the agency responsible for the administration of the Physical Planning and Development Act, designate in a watershed management plan any area of land to be declared as a zoned area reserved for specific purposes under that Act.

(5) Where in the opinion of the Agency it is necessary or desirable for water resources management purposes for pasturage to be provided for landless livestock farmers, the Agency may, after consultation with the agency responsible for the administration of the Government Pasturage Lands Act, designate in a watershed management plan any area of Crown land or other land owned or controlled by the Government to be declared as pasturage lands on which farmers may graze livestock by licence.

## **8. Public consultation and participation**

In the course of preparing a watershed management plan, the Agency shall take reasonable steps to—

- (a) give adequate publicity in the area to which the watershed management plan relates to the matters concerning which proposals will be made in the plan;
- (b) liaise with community organisations and conduct public consultations in the area to which the watershed management plan relates;
- (c) invite persons whose interests may be affected by the prohibition, regulation or control of any activity in the area to make representations to the Agency on those matters and give those persons adequate opportunity to make representations; and
- (d) incorporate into the watershed management plan mechanisms for the continued participation by persons and community organizations from the area during the implementation of the plan.

## **9. Approval of watershed management plans**

(1) After the Agency considers any representations made to it under regulation 8, the Agency shall submit the watershed management plan to the Minister for approval.

(2) After considering the watershed management plans submitted by the Agency, the Minister may accept it or reject it.

(3) Where a draft watershed management plan prepared by the Agency has been submitted to and accepted by the Minister, with or without modifications, the Minister must submit it for the approval of Cabinet.

(4) When a watershed management plan is approved by Cabinet, the Agency must cause notice of such approval to be published in the Gazette and at least one newspaper in general circulation in Saint Lucia.

(5) The prescriptions of a watershed management plan, including any prohibition, regulation or control on activities in the area, have effect from the date of publication in the Gazette.

## **10. Declaration of gathering grounds and protected areas**

Where any area of land is designated in an approved watershed management plan as an area to be declared as a gathering ground under section 8 of the Act or a protected area, under section 9 of the Act the Agency must advise the Minister to declare the area to be a gathering ground or protected area under the Act, as soon as practicable after the plan is approved.

## **11. Preparation of water master plan**

(1) A water master plan prepared by the Agency under section (1)(h) of the Act shall—

- (a) include an assessment of the—
  - (i) quantity and quality of the water resources of Saint Lucia and proposals for the conservation and sustainable development of those resources, and
  - (ii) present and future demand for and supply of raw and potable water in Saint Lucia and proposals for water allocation schemes; and
- (b) divide the entire geographical area of Saint Lucia into watersheds on the basis of convenience for watershed management planning purposes; and
- (c) set priorities between the various watersheds so defined for the purposes of the preparation of individual watershed management plans.

(2) In the course of preparing a water master plan, the Agency shall—

- (a) take into account the National Water Policy of Saint Lucia; and
- (b) take reasonable steps to consult with—
  - (i) the Commission,
  - (ii) any other Government agency having an interest in the matter related to water resources management, including but not limited to the management of Crown lands, forests and other protected areas, agriculture, environmental protection and the development of land, and
  - (iii) any *bona fide* non-governmental organisation which demonstrates an interest in water resource management.

(3) Before presenting a water master plan to the Minister for approval, the Agency shall—

- (a) give notice in the Gazette and at least one newspaper in general circulation in Saint Lucia of the places where and times when the draft plan may be inspected; and
- (b) give such other publicity to the matter as is appropriate to inform other Government agencies and the public in general, particularly persons whose interests are likely to be affected by the proposals in the draft plan, of—
  - (i) their right to make representations to the Agency with regard to the proposals in the draft plan, and
  - (ii) the date by or before which such representations must be made.

(4) After the expiry of the period allowed for the making of representations on a water master plan, the Agency must consider any representations made by other Government agencies, non-governmental organizations or the public and submit the water master plan, with or without modifications, to the Minister for approval.

## **12. Approval of water master plan**

(1) After considering the water master plan submitted by the Agency, the Minister may accept it or reject it.

(2) Where a water master plan has been submitted to and rejected by the Minister, it must be referred back to the Agency for review and modification, having regard to the grounds on which it was rejected by the Minister.

(3) Where a water master plan has been submitted to and accepted by the Minister, with or without modifications, the Minister shall submit it for the approval of Cabinet.

(4) When a national water master plan has been approved by Cabinet, the Agency shall—

- (a) cause notice of the approval of the national water master plan to be published in the Gazette and at least one newspaper in general circulation in Saint Lucia; and
- (b) make copies of the approved water master plan available for sale to the public, in electronic or printed form, at a reasonable price.

## **13. Review and revision of the plan**

(1) At least once in every 10 years after the date on which a water master plan is approved, the Agency must carry out a review of the approved water master plan and submit to the Minister a report on that review together with proposals for any changes to the water master plan that appear to be appropriate.

(2) The provisions of regulations 11 and 12 with respect to the preparation and approval of a water master plan apply, with any modifications necessary, to any proposal for changes to an approved water master plan made under this regulation.

## **14. Conduct of investigations**

(1) Where, in the exercise of the power conferred upon it by section 4(2)(a) of the Act, the Agency wishes to compel a licensee or permit holder to produce documents and records in the custody of the licensee or permit holder, the Agency must serve the licensee or permit holder with an order in the form set out in Form 2 of the Schedule.

(2) Where, in the exercise of the power conferred upon it by section 4(2)(b) of the Act, the Agency wishes to compel a licensee or permit holder to appear for the purpose of ascertaining compliance with the Act, the Agency must serve the licensee or permit holder with an order in the form set out in Form 2 of the Schedule.

(3) Where, in the exercise of the powers conferred upon it by sections 4(2)(a) and (b) of the Act, the Agency wishes both to compel a licensee or permit holder to appear for the purpose of ascertaining compliance with the Act and to produce documents and records in the custody of the licensee or permit holder, the Agency must serve the licensee or permit holder with an order in the form set out in Form 3 of the Schedule.

(4) Any order made under section 4(2) of the Act, under subregulation (1), (2) or (3), must be served on the licensee or permit holder by sending it to the licensee or permit holder, at the address of the licensee or permit holder recorded in the register, by registered mail.

(5) Where, in the exercise of the powers conferred upon the Agency by section 4(2)(e) of the Act, the Agency proposes to enter or inspect any premises, the person authorized by the Agency to enter or inspect the premises must show some form of identification and authorization.

(6) Where, in the exercise of the powers conferred upon the Agency by section 4(2)(f) of the Act, the Agency seizes, removes or impounds any documents or records, the Agency must give the licensee or permit holder a list or inventory of all the documents or records taken.

## **15. Serious deficiency in supply**

(1) Where by reason of exceptional shortage of rainfall or contamination of water, a serious deficiency of supplies of water exists or is threatened and the Agency proposes to advise the Minister to declare an emergency under section 10(1) of the Act, the Agency must consult with the Commission and any service licensee whose service is likely to be affected by the declaration of an emergency, with regard to the prohibitions or limitations on taking or using water to be included in the proposed Order, before advising the Minister to declare an emergency.

(2) Where an emergency exists or is threatened by reason of the contamination of water, the Agency shall—

- (a) immediately notify the Director of the National Emergency Management Office (NEMO), established under the Disaster Preparedness and Response Act;
- (b) consult with the Ministry of Health with regard to the prohibitions to be included and other matters to be catered for in the proposed Order, before advising the Minister to declare the emergency; and
- (c) cooperate with NEMO, the Ministry of Health and any other relevant Government agencies in taking emergency measures to clean-up any contamination, and counter-measures to prevent any further contamination.

## **16. Form of application for licence**

For the purposes of section 14 of the Act, an application to the Minister for an abstraction licence, shall be in the form specified in Form 4 of the Schedule.

## **17. Notification of grant or refusal of licence**

(1) The notification of the grant of an abstraction licence under section 16 of the Act, shall be in the form specified in Form 5 of the Schedule.

(2) The notification of the refusal of an abstraction licence under with section 16 of the Act, shall be in the form specified in Form 6 of the Schedule.

## **18. Form of licence**

For the purposes of section 18 of the Act, an abstraction shall be in the form specified in Form 7 of the Schedule.

## **19. Form of application for permits**

(1) For the purposes of section 27 (1) (a) of the Act, an application for a permit to abstract or use water in a water control area, shall be in the form specified in Form 8 of the Schedule.

(2) For the purposes of section 27 (1) (b) of the Act, an application for a permit to discharge waste or a class of waste in a waste control area, shall be in the form specified in Form 9 of the Schedule.

## **20. Notification of grant or refusal of permit**

(1) The notification to an applicant of the grant of a water use or waste discharge permit, in accordance with section 29(1) of the Act, shall be in the form specified in Form 10 of the Schedule.

(2) The notification to an applicant of the refusal of a water use or waste discharge permit, in accordance with section 29(1) of the Act, shall be in the form specified in Form 11 of the Schedule.



## **21. Form of permits**

For the purposes of section 31 of the Act—

- (a) a permit to abstract or use water in a water control area shall be in the form specified in Form 12 of the Schedule;
- (b) permit to discharge waste or a class of waste in a waste control area shall be in the form specified in Form 13 of the Schedule.

## **22. Form of application for a hearing**

(1) The prescribed form for making an application to the Agency for a hearing on a pending application for an abstraction licence, under section 17(1) of the Act, is set out in Form 14 of the Schedule.

(2) The prescribed form for making an application to the Agency for a hearing on a pending application for a water use or waste discharge permit, under section 30(1) of the Act, is set out in Form 15 of the Schedule.

(3) Where an application is made to the Agency for a hearing under section 17(1) or 30(1) of the Act, in the form prescribed in subregulation (1) or (2), as the case may be, the Agency must appoint a time and place for a hearing at which the applicant may make a case, not being more than 48 hours after the application is received.

## **23. Records to be kept**

(1) The Agency shall maintain a register containing particulars of—

- (a) applications for an abstraction licence, including the name and address of the applicant, the date of the application, and particulars concerning the proposed source and volume of water to be abstracted;
- (b) applications for a permit to use water in a water control area, including the name and address of the applicant, and particulars concerning the volume of water that the applicant proposes to use and the class of use;
- (c) applications for a permit to discharge waste in a waste control area, including the name and address of the applicant, and particulars concerning the class and volume of waste and place where the applicant proposes to discharge it;
- (d) requests for additional information made by the Agency to the applicant, including the date on which the information was requested and the date on which the information was submitted, and particulars of any extension of time granted to the applicant by the Agency;
- (e) recommendations made by the Agency to the Minister with respect to an application, including the date on which the recommendation is made;
- (f) decisions made by the Minister with respect to applications referred to in paragraph (a) (b) and (c), including the effect of the decision and the date on which the applicant is notified of it;
- (g) appeals from a decision of the Agency or the Minister made to the Appeals Tribunal against that decision, the date on which the appeal is made and the decision made by the Appeals Tribunal on the appeal; and
- (h) abstraction licences, water use permits or waste disposal permits granted by the Minister, including the date of issue and expiry.

(2) The register kept by the Authority under subregulation (1) must include an index in the form of a map, and both the register and the index may be kept in an electronic data storage and retrieval system.

(3) Every entry in the register must be made within 7 days of the date on which the decision, notice or event to which it relates was made, filed, issued or done.

(4) The register must be kept at the office of the Agency and person is entitled to access to the information recorded on payment of the prescribed search fee and to take copies of such information on payment of the cost of making copies.

## **24. Fees**

The fees payable with respect to an application, licence or permit made or granted under these Regulations are as prescribed.

### **Schedule**

#### **Form 1**

(Regulation 14(1))

#### **Form of Order to Produce Documents**

##### **ORDER TO PRODUCE DOCUMENTS**

##### **Water and Sewerage Act – section 4(2)**

To: *[Name & Address of (Licensee or) Permit Holder]*

The Water Resource Management Agency, in the exercise of the power conferred by section 4(2)(a) of the Water and Sewerage Act orders you to produce at the office of the Agency at *[address]* on the *[date]* at *[time]* the following documents and records in your custody or control:

Date: ..... Signed: .....  
Director

##### **NOTICE:**

**Failure to comply with this Order constitutes a breach of the Act and of the [licence or permit] granted to you under the Act, as a consequence of which the said [licence or permit] may be suspended or revoked under section [21 or 34] of the Act and you may be prosecuted under section [22 or 35] of the Act.**

#### **Form 2**

(Regulation 14(2))

#### **Form of Order to Appear**

##### **ORDER TO APPEAR**

##### **Water and Sewerage Act – section 4(2)**

To: *[Name & Address of Licensee or Permit Holder]*

The Water Resource Management Agency, in the exercise of the power conferred by section 4(2)(b) of the Water and Sewerage Act orders you to appear at the office of the Agency at *[address]* on the *[date]* at *[time]* for the purpose of providing information with respect to compliance with the Act.

Date: ..... Signed: .....  
Director

**NOTICE:**

**Failure to comply with this Order constitutes a breach of the Act and of the [licence or permit] granted to you under the Act, as a consequence of which the said [licence or permit] may be suspended or revoked under section [21 or 34] of the Act and you may be prosecuted under section [22 or 35] of the Act.**

**Form 3**

(Regulation 14(3))

**Form of Order to Appear & Produce Documents**

**ORDER TO APPEAR & PRODUCE DOCUMENTS**

**Water and Sewerage Act – section 4(2)**

To: *[Name & Address of (Licensee or) Permit Holder]*

The Water Resource Management Agency, in the exercise of the powers conferred by section 4(2)(a) and (b) of the Water and Sewerage Act orders you to:

1. Appear at the office of the Agency at *[address]* on the *[date]* at *[time]* for the purpose of providing information with respect to compliance with the Act; and
2. Bring with you and produce at the aforementioned place and time the following documents and records in your custody or control:

*[List the documents or records to be produced.]*

Date: ..... Signed: .....  
Director

**NOTICE:**

**Failure to comply with this Order constitutes a breach of the Act and of the [licence or permit] granted to you under the Act, as a consequence of which the said [licence or permit] may be suspended or revoked under section [21 or 34] of the Act and you may be prosecuted under section [22 or 35] of the Act.**

**Form 4**

(Regulation 16)

**Form of Application for a Water Abstraction Licence**

**APPLICATION FOR A LICENCE TO ABSTRACT WATER**

**Water and Sewerage Act – section 14(1)**

FOR OFFICIAL USE ONLY	
Application No.	
Date Submitted	
Fee Paid	
Receipt No.	
Information Requested	

Information Submitted	
Recommendation Made	
Notice Issued	

## APPLICANT

1. Name of Applicant (in BLOCK LETTERS):  
.....
2. Address of applicant:
3. Name & Address of person other than the applicant (professional adviser or agent) (if any) to whom communications concerning this application are to be sent:

## WATER SOURCE

4. Give the name of or sufficient description to identify, the source of the water from which you propose the licence should authorise abstraction:

## ABSTRACTION POINT/S

5. Give the reference number of the Map Sheet and the map reference (coordinates) of the proposed intake/abstraction point/s indicated:

## INTEREST IN THE LAND

6. State whether you are the owner or occupier of the land
7. If you are the owner/co-owner of the land [attach proof of title]
8. If you are the occupier of the land, [attach a copy of your tenancy agreement or other documentary proof of authorisation to occupy the land]
9. If you are not owner of the land, state whether the owner has been informed that this application is being made
10. If you are not the owner or occupier of the land, state if and when you expect to acquire an interest in or the right of access to the land
11. Give the names & addresses of any other persons known to you whose interests may be affected by this application

## PURPOSE FOR WHICH WATER IS TO BE USED

12. State whether the water proposed to be abstracted is to be used for public water supply or other purposes
13. If the water to be abstracted is to be used for purposes other than public water supply, specify the use to which the water proposed to be abstracted is to be put, as follows:

Class of Use	Details	Quantity
○ Domestic		
○ Livestock		
○ Irrigation		
○ Fish Farming		
○ Tourism		
○ Industrial		
○ Mining		
○ Power generation		
○ Other (Specify)		

## QUANTUM OF WATER TO BE ABSTRACTED

14. Specify the maximum quantity of water (in thousands of gallons per annum) that you propose the licence should authorise to be abstracted

.....

15. If, because of the purposes for which the water is to be used, there will be significant seasonal variations in the quantity of water to be abstracted, specify in the following table the maximum quantity of water that you propose the licence should authorise to be abstracted from month to month:

<b>QUANTITY OF WATER TO BE ABSTRACTED</b> <b>(Thousands of Gallons per Month)</b>			
Month	Quantity	Month	Quantity
January		July	
February		August	
March		September	
April		October	
May		November	
June		December	

#### **PROPOSED MEANS OF ABSTRACTION & MEASUREMENT**

16. Specify the works (if any) and the type and capacity of the machinery or apparatus by means of which you propose the licence should authorise abstraction at the point/s shown
17. Specify the way in which you propose the licence should require the quantities of water abstracted to be measured or assessed

#### **PARTICULARS OF POSSIBLE POLLUTION**

18. If the purpose for which you propose to utilise water will result in the discharge of wastewater, state the estimated proportion of the quantity of water abstracted that is likely to be discharged after use
- .....
19. Specify whether the wastewater is to be discharged into a public sewer or returned into the environment
20. If the wastewater is to be returned into the environment, specify whether the wastewater will be subjected to any treatment (and the type of treatment) prior to discharge
21. If the (treated or untreated) wastewater to be returned to the environment will be discharged from any point source/outfall, show the point/s of discharge on the accompanying map and give the map reference (coordinates) for that/those discharge points
22. Give particulars of possible pollution and describe the measures to be taken to avoid pollution

#### **OTHER MATTERS**

23. Give particulars of any previous application/s made for an abstraction licence
24. If the water to be abstracted is to be used for purposes other than public water supply, state whether you have applied to a service licensee for a supply of water for those purposes

.....

25. Specify the period for which you require the licence [years].

I hereby apply to the Minister [*responsible for agriculture*] for a licence under the Water and Sewerage Act and the Water Resource Management Regulations to abstract

water in accordance with the proposals set out above and I declare that, to the best of my knowledge, the statements made above are true.

I enclose with this application form:

- (i) A copy of the required map, and
- (ii) Proof of payment of the prescribed application fee.

Signature of Applicant:

Date: .....

**NOTES:**

- 1. This application must be accompanied by a copy of an official [Ordnance Survey] topographic map of the area, showing the intake point/s at which you propose that the licence should authorise abstraction, and the point/s at which you propose that wastewater will be returned into the environment (if any).
- 2. This application must be submitted to the Water Resources Agency at [address of office] in [duplicate/triplicate].

**Form 5**

(Regulation 17 (1))

**Form of Notice of Grant of Water Abstraction Licence**

**NOTICE OF GRANT OF ABSTRACTION LICENCE**

**Water and Sewerage Act – section 16(1)**

To: *[Name & Address of Applicant]*

TAKE NOTICE that, in accordance with a recommendation made by the Water Resource Management Agency, the Minister [*responsible for agriculture*] has decided to grant the abstraction licence applied for on the [.....] day of [*month & year*] under Application No. [.....], for a period of [.....] years from the date of issue, subject to the provisions of the Water and Sewerage Act and the Water Resource Management Regulations, and to the following specific terms and conditions:

- 1. [Etc.]
- 2. [Etc.]

AND that the abstraction licence will be issued on presentation of proof of payment of the prescribed abstraction licence fee.

TAKE FURTHER NOTICE that, if you are aggrieved by the decision of the Minister, you have the right to appeal in writing to the Appeals Tribunal within 28 days of the date of this decision, under sections 16(2) and 96(4) of the Act.

Date: ..... Signed: .....

*For: Minister responsible for water resource  
management*

*(Amended by Act 3 of 2016)*

**Form 6**

Regulation 17(2)

**Form of Notice of Refusal of Water Abstraction Licence**

## NOTICE OF REFUSAL OF ABSTRACTION LICENCE

### Water and Sewerage Act – section 16(1)

To: *[Name & Address of Applicant]*

TAKE NOTICE that, in accordance with a recommendation made by the Water Resource Management Agency, the Minister *[responsible for agriculture]* has decided to refuse the abstraction licence applied for on the *[.....]* day of *[month & year]* under Application No. *[.....]*, for the following reasons:

1. *[Etc.]*
2. *[Etc.]*

TAKE FURTHER NOTICE that, if you are aggrieved by the decision of the Minister, you have the right to appeal in writing to the Appeals Tribunal within 28 days of the date of this decision, under sections 16(2) and 96(4) of the Act.

Date: ..... Signed: .....  
*For: Minister responsible for water resource management*

*(Amended by Act 3 of 2016)*

### Form 7

(Regulation 18)

### Form of Water Abstraction Licence

#### LICENCE TO ABSTRACT WATER

### Water and Sewerage Act – section 18

Licence No.: .....

Expiry Date: .....

WHEREAS, *[Name]* of *[Address]* (hereinafter referred to as “the licensee”) applied to the Minister. on the ..... day of ..... under Application No ....., under the Water and Sewerage Act and the Water Resource Management Regulations, to abstract and use water, the right to which is vested in the Crown;

AND whereas, in accordance with the provisions of the aforesaid Act and Regulations, the Water Resource Management Agency has made a recommendation to the Minister that the said application be granted and the Minister has decided in accordance with that recommendation to grant an abstraction licence;

AND whereas the licensee has paid the licence fee prescribed by law;

LICENCE IS HEREBY GRANTED to the licensee under section 18 of the Water and Sewerage Act to take and use water from *[description of source]* known as *[name of source]* for the purpose of *[public water supply or other specified use]*, for a period of *[years]* from the date of issue, subject to the Water and Sewerage Act and the Water Resource Management Regulations, and any other laws that may from time to time be in force governing the works to be constructed and activities to be carried out, and such additional terms and conditions as are specified in this licence.

#### ADDITIONAL TERMS & CONDITIONS

*[List specific conditions (if any)]*

THIS LICENCE does not have the effect of dispensing with the necessity of obtaining any other permission where such permission is required under any law in force in Saint Lucia.

Issued this ..... day of .....

[Signed]

*For: Minister responsible for water  
resource management*

*(Amended by Act 3 of 2016)*

## **Form 8**

(Regulation 19(1))

### **Form of Application for a Water Use Permit**

#### **APPLICATION FOR A PERMIT TO USE WATER IN A WATER CONTROL AREA**

##### **Water and Sewerage Act – section 27(1)(a)**

<b>FOR OFFICIAL USE ONLY</b>	
Application No.	
Date Received	
Fee Paid	
Receipt Number	
Information Requested	
Information Submitted	
Recommendation Made	
Notice Issued	

#### **APPLICANT**

1. Name of Applicant (in BLOCK LETTERS):
2. Address of applicant:
3. Name & Address of person other than the applicant (professional adviser or agent) (if any) to whom communications concerning this application are to be sent:

#### **WATER SOURCE**

4. Identify the Water Control Area to which this application pertains  
.....
5. State whether you propose to take the water that you desire a permit to use from a supply provided by a service licensee or another source  
.....
6. If you propose to take the water from a supply provided by a service licensee, is the water that you desire a permit to use raw water or potable water.?
7. If you propose to take the water that you desire a permit to use from a source other than a supply provided by a service licensee, give a description sufficient to identify the proposed source  
.....

#### **USE/S OF WATER**



8. Specify the use/s to which you propose to put the water that you desire a permit to use, as follows:

<u>Class of Use</u>	<u>Details</u>	<u>Quantity</u>
○ Domestic		
○ Livestock		
○ Irrigation		
○ Fish Farming		
○ Tourism		
○ Industrial		
○ Mining		
○ Power generation		
○ Other (Specify)		

#### EXISTING USE

9. State whether you are existing user of the said water: YES ☐ – NO ☐
10. State whether you are, or were previously, the holder of a permit to use the water: YES ☐ – NO ☐
11. If the answer to 7 is YES, give the reference number and date of expiry of the permit: Ref. No. .... Expiry Date: .....
12. If the answer to 7 is NO: State whether you had been using the water continuously for a period of more than 24 months prior to [*the commencement date of the Act*]: YES ☐ – NO ☐

#### ABSTRACTION LICENCE

13. If you propose to take the water that you desire a permit to use from a source other than a supply provided by a service licensee, state whether you have applied for an abstraction licence with respect to taking that water: YES ☐ – NO ☐
14. If you have an abstraction licence, give the reference number and date of expiry of the licence: Licence No..... Expiry Date: .....
15. If your application for an abstraction licence was refused, give the reference number of your application and the date of refusal: Application No. .... Date of Refusal: .....
16. If you have applied for an abstraction licence and your application is still pending, give the reference number of your application: Application No. ....

#### OTHER MATTERS

17. Specify the period for which the permit is required .....
18. Give details of any other matters that you wish the Agency to take into account in considering your application (e.g. the facilities that you have available for storing water for use during periods of deficiency in supply, the extent to which the water used will be re-used or returned to the environment, etc)

.....

.....

.....

.....

I hereby apply to the Minister [*responsible for agriculture*] for a permit under the Water and Sewerage Act and the Water Resource Management Regulations to use water in a Water Control Area and I declare that, to the best of my knowledge, the statements made above are true.

I enclose with this application form proof of payment of the prescribed application fee.

Signature of Applicant:

Date:

**NOTE:**

**This application must be submitted to the Water Resource Agency at [address of office] in [duplicate/triplicate].**

**Form 9**

(Regulation 19(2))

**Form of Application for a Waste Discharge Permit**

**APPLICATION FOR A PERMIT TO DISCHARGE WASTE IN A WASTE CONTROL AREA**

**Water and Sewerage Act – section 27(1)(b)**

FOR OFFICIAL USE ONLY	
Application No.	
Date Received	
Fee Paid	
Receipt Number	
Information Requested	
Information Submitted	
Recommendation Made	
Notice Issued	

**APPLICANT**

1. Name of Applicant (in BLOCK LETTERS): .....
2. Address of applicant: .....
3. Name & Address of person other than the applicant (professional adviser or agent) (if any) to whom communications concerning this application are to be sent: .....

**DISCHARGE SITE**

4. Identify the Waste Control Area to which this application pertains  
.....
5. Give a description sufficient to identify the land, sewer or drain, bore or water, into which you desire a permit to discharge waste .....  
.....

**CLASS OF WASTE**

6. State whether the waste discharge will consist of or include any of the following classes of waste:
  - (i) Surface/Storm Water Runoff: YES ☐ – NO ☐
  - (ii) Sewage Effluent: YES ☐ – NO ☐

(iii) Trade Effluent: YES ☐ – NO ☐

(iv) Other Discharge (Specify)

7. Will the discharge consist of or contain any oil or oily waste? YES ☐ – NO ☐
8. Will the waste discharge consist of or contain any toxic, noxious or persistent organic pollutants? YES ☐ – NO ☐
9. If the answer to 7 or 8 is YES, give particulars of the composition of the waste to be discharged

.....

#### QUANTUM OF DISCHARGE

10. What is the estimated volume of the discharge? (gal. or m<sup>3</sup>/d)
11. What is the estimated maximum rate of discharge? (gal or m<sup>3</sup>/hr)
12. What is the estimated maximum temperature of the discharge? (C°)
13. Give particulars of method/s of measurement of volume, rate and temperature of discharge

#### TREATMENT OF DISCHARGE

14. Give particulars of proposals for treatment of waste prior to discharge (if any)

.....

#### RECEIVING WATERS

15. What is the rate of flow in the sewer, drain or watercourse into which the waste is to be discharged? (gal. or m<sup>3</sup>/hr)
16. If waste is to be discharged into a watercourse or body of water, give particulars of the ambient quality of the receiving waters

.....

I hereby apply to the Minister [*responsible for agriculture*] for a permit under the Water and Sewerage Act and the Water Resource Management Regulations to discharge waste in a Waste Control Area and I declare that, to the best of my knowledge, the statements made above are true.

I enclose with this application form proof of payment of the prescribed application fee.

Signature of Applicant:

Date:

#### NOTE:

**This application must be submitted to the Water Resources Agency at [address of office] in [duplicate/triplicate].**

#### Form 10

(Regulation 20(1))

#### Form of Notice of Grant of Water Use or Waste Discharge Permit

#### NOTICE OF GRANT OF PERMIT

**Water and sewerage Act – section 29(1)**

To: [Name & Address of Applicant]

TAKE NOTICE that, in accordance with a recommendation made by the Water Resource Management Agency, the Minister [*responsible for agriculture*] has decided to grant the permit [to use water in a water control area/discharge waste in a waste control area (as the case may be)] applied for on the [ ] day of [month & year] under Application No. [ ], for a period of [ ] years from the date of issue, subject to the provisions of the Water and Sewerage Act and the Water Resource Management Regulations and to the following specific conditions:

1. [Etc.]
2. [Etc.]

AND THAT the permit will be issued on presentation of payment of the prescribed permit fee.

TAKE FURTHER NOTICE that, if you are aggrieved by the decision of the Minister, you have the right to appeal in writing to the Appeals Tribunal within 28 days of the date of this decision, under sections 29(2) and 96(4) of the Act.

Date: ..... Signed: .....  
For: Minister responsible for water resource  
management

(Amended by Act 3 of 2016)

#### **Form 11**

(Regulation 19(2))

#### **Form of Notice of Refusal of Water Use or Waste Discharge Permit**

#### **NOTICE OF REFUSAL OF PERMIT**

#### **Water and Sewerage Act – section 29(1)**

To: [Name & Address of Applicant]

TAKE NOTICE that, in accordance with a recommendation made by the Water Resource Management Agency, the Minister [*responsible for agriculture*] has decided to refuse the permit [to use water in a water control area/discharge waste in a waste control area (as the case may be)] applied for on the [ ] day of [month & year] under Application No. [ ], for the following reasons:

1. [Etc.]
2. [Etc.]

TAKE FURTHER NOTICE that, if you are aggrieved by the decision of the Minister, you have the right to appeal in writing to the Appeals Tribunal within 28 days of the date of this decision, under sections 29(2) and 96(4) of the Act.

Date: ..... Signed: .....  
For: Minister responsible for water resource  
management

(Amended by Act 3 of 2016)

#### **Form 12**

(Regulation 21(a))

### **Form of Water Use Permit**

#### **PERMIT TO USE WATER IN A WATER CONTROL AREA**

##### **Water and Sewerage Act – section 31**

Permit No.: .....

Expiry Date: .....

WHEREAS, [Name] of [Address] (hereinafter referred to as “the holder”) applied to the Minister, on the     day of     under Application No.     , under the Water and Sewerage Act and the Water Resource Management Regulations, to use water in a Water Control Area;

AND whereas, in accordance with the provisions of the aforesaid Act and Regulations, the Water Resource Management Agency has made a recommendation to the Minister that the said application be granted and the Minister has decided in accordance with that recommendation to grant a permit;

AND whereas the holder has paid the permit fee prescribed by law;

PERMISSION IS GRANTED to the holder under section 29 of the Water and Sewerage Act to [set out scope of permit] .....

.....  
within a declared Water Control Area, for a period of [time in number of days, months or years] from the date of issue, subject to the Water and Sewerage Act and the Water Resource Management Regulations, and the following additional terms and conditions:

##### **ADDITIONAL TERMS & CONDITIONS**

[List specific conditions (if any)]

THIS PERMIT does not have the effect of dispensing with the necessity of obtaining an abstraction licence, where such a licence is required under the Water and Sewerage Act or with the necessity of obtaining any other permission, where such permission is required under any law in force in Saint Lucia.

Issued on this     day of

[Signed]

*Minister responsible for water  
resource management*

*(Amended by Act 3 of 2016)*

#### **Form 13**

(Regulation 21(b))

### **Form of Waste Discharge Permit**

#### **PERMIT TO DISCHARGE WASTE IN A WASTE CONTROL AREA**

##### **Water and Sewerage Act – section 31**

Permit No.: .....

Expiry Date: .....

WHEREAS, [Name] of [Address] (hereinafter referred to as "the holder") applied to the Minister, on the     day of     under Application No.     , under the Water and Sewerage Act and the Water Resource Management Regulations, to discharge waste in a Waste Control Area;

AND whereas, in accordance with the provisions of the aforesaid Act and Regulations, the Water Resource Management Agency has made a recommendation to the Minister that the said application be granted and the Minister has decided in accordance with that recommendation to grant a permit;

AND whereas the holder has paid the permit fee prescribed by law;

PERMISSION IS GRANTED to the holder under section 29 of the Water and Sewerage Act to: [set out scope of permit]

within a declared Waste Control) Area, for a period of [time in number of days. months or years] from the date of issue, subject to the Water and Sewerage Act and the Water Resource Management Regulations and the following additional terms and conditions:

#### **ADDITIONAL TERMS & CONDITIONS**

[List specific conditions (if any)]

THIS PERMIT does not have the effect of dispensing with the necessity of obtaining any other permission where such permission is required under any law in force in Saint Lucia.

Issued on the     day of     20

[Signed]

Minister responsible for water  
resource management

(Amended by Act 3 of 2016)

#### **Form 14**

(Regulation 22(1))

#### **Form of Application to the Agency for a Hearing under Section 17**

#### **APPLICATION TO THE AGENCY FOR A HEARING**

##### **Water and Sewerage Act – section 17**

To: The Water Resource Management Agency

WHEREAS on [date of application] the Applicant submitted an application, Application No. [Ref. No.], for an abstraction licence, together with the prescribed application fee, to the Minister under section 14 of the Act; and

[EITHER] NO RECOMMENDATION has been made by Agency to the Minister within the period of 28 days of [the application being made OR the additional information requested from the applicant being submitted (as the case may be)], specified in section 15(5) of the Act;

[OR] NO NOTIFICATION has been given by the Minister to the Applicant within the period of 14 days of receipt of the recommendation made by the Agency, specified in section 16(1) of the Act;

THE APPLICANT APPLIES FOR A HEARING to make a case before the Agency under section 17 of the Act.

Date: ..... Signed:.....

*Applicant*

## **Form 15**

(Regulation 22(2))

### **Form of Application to the Agency for a Hearing under Section 30**

#### **APPLICATION TO THE AGENCY FOR A HEARING**

##### **Water and Sewerage Act – section 30**

To: The Water Resource Management Agency

WHEREAS on [*date of application*] the Applicant submitted an application, Application No. [*Ref. No.*], for a permit [*to use water in a Water Control Area OR discharge waste in a Waste Control Area (as the case may be)*], together with the prescribed application fee, to the Minister under section 27 of the Act; and

[*EITHER*] NO RECOMMENDATION has been made by Agency to the Minister within the period of 28 days of [*the application being made OR the additional information requested from the applicant being submitted (as the case may be)*], specified in section 28(5) of the Act;

[*OR*] NO NOTIFICATION has been given by the Minister to the Applicant within the period of 14 days of receipt of the recommendation made by the Agency, specified in section 29(1) of the Act;

THE APPLICANT APPLIES FOR A HEARING to make a case before the Agency under section 30 of the Act.

Date: ..... Signed:.....

*Applicant*

---

### **Water and Sewerage (Water Resource Management) (Fees) Regulations – Section 97(2)(h)**

#### **(Statutory Instrument 68/2009)**

Statutory Instrument 68/2009 .. in force 25 May 2009

#### **ARRANGEMENT OF REGULATIONS**

1. Citation
  2. Interpretation
  3. Application fees
  4. Other administrative fees and charges
  5. Abstraction licence fees
  6. Permit fees
  7. Payment to be made to the Treasury
- Schedule 1  
Schedule 2  
Schedule 3  
Schedule 4  
Schedule 5
-

**WATER AND SEWERAGE (WATER RESOURCE MANAGEMENT) (FEES)  
REGULATIONS – SECTION 97(2)(H)**

Commencement [25 May 2009]

**1. Citation**

These Regulations may be cited as the Water and Sewerage (Water Resource Management) (Fees) Regulations.

**2. Interpretation**

In these Regulations—

“**Act**” means the Water and Sewerage Act;

“**Agency**” means the Water Resource Management Agency established under section 3 of the Act.

**3. Application fees**

The fees payable in relation to applications made under Part II of the Act are specified in the Schedule 1.

**4. Other administrative fees and charges**

The fees and charges payable in relation to other administrative services provided by the Agency are specified in the Schedule 2.

**5. Abstraction licence fees**

The fee payable in relation to an abstraction licence under section 18 of the Act is charged on the volume of water abstracted, at a rate computed as specified in the Schedule 3.

**6. Permit fees**

(1) The fee payable in relation to a permit to use water in a water control area under section 31 of the Act is payable by a user of the class specified in the first column of the Schedule 4 at the rate specified on the same line in the second column.

(2) The fee payable in relation to a permit to discharge waste in a waste control area under section 31 of the Act is payable with respect to the class of waste specified in the first column of the Schedule 5 at the rate specified on the same line in the second column.

**7. Payment to be made to the Treasury**

The fees payable with respect to any application, licence or permit made or granted under these Regulations are to be paid into the Treasury.

**Schedule 1**

(Regulation 3)

**APPLICATION FEES**

All application Fees	—	\$10.00
----------------------	---	---------



## Schedule 2

(Regulation 4)

### OTHER ADMINISTRATIVE FEES AND CHARGES

Search Fees and Administrative Fees — \$25.00

## Schedule 3

(Regulation 5)

### ABSTRACTION LICENCE FEES

Volume of Water Abstracted	Fee
Abstraction Licence Fees	
Main operator distributor	\$200,000.00 Annually
Large operator – for self use	\$20,000.00 Annually
Medium operator – for self use	\$5,000.00 Annually
Agriculture	Free

## Schedule 4

(Regulation 6(1))

### PERMIT FEES (WATER USE)

Class of User	Fee
Agricultural	Free
Residential	Free
Commercial	\$3,000.00 Annually
Industrial	\$3,000.00 Annually

## Schedule 5

(Regulation 6(2))

### PERMIT FEES (WASTE DISCHARGE)

Class of Waste	Fee
Domestic Sewerage	\$1,000.00
Industrial Waste	\$5,000.00

---

### Water and Sewerage (Water-Related Emergency) (Declaration) (No. 2) Order – Section 10(1)

### (Statutory Instrument 137/2010)

Statutory Instrument 137/2010 .. in force 15 November 2010

### ARRANGEMENT OF REGULATIONS

- |          |  |
|----------|--|
| 1.       | Citation                               |
| 2.       | Declaration of water-related emergency |
| 3.       | Prohibitions                           |
| 4.       | Offence and penalty                    |
| Schedule | Filling out of document                |
- 

**WATER AND SEWERAGE (WATER-RELATED EMERGENCY) (DECLARATION)  
(NO. 2) ORDER – SECTION 10(1)**

Commencement [15 November, 2010]

**1. Citation**

This Order may be cited as the Water and Sewerage (Water-Related Emergency)(Declaration) (No. 2) Order.

**2. Declaration of water-related emergency**

A water-related emergency is declared.

**3. Prohibitions**

The prohibitions specified in the Schedule apply in all areas of the island of Saint Lucia served by hurricane-affected water supply systems and remains in effect until further notice.

**4. Offence and penalty**

(1) A person shall not use or cause or permit to be used any water supplies by or obtained from the pipes of the Water and Sewerage Company Inc (WASCO) for any purpose specified in the Schedule.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than \$3,000 or to imprisonment for a term of not less than 6 months or to both and to a further fine of not less than \$50 for each day during with the breach continues.

**Schedule**

(Section 3)

**PROHIBITIONS**

The following prohibitions apply—

(1) The use of water supplied by or obtained through the pipes of the Water and Sewerage Company Inc (WASCO)—

- (a) for the washing of vehicles using hoses;
- (b) for watering of gardens, lawns, grounds and farms;
- (c) for supplying ponds, or swimming pools or for use other than normal domestic services such as drinking, cooking, washing, bathing and sanitation;
- (d) for pressure washing of houses using a hose or watering or washing roadways, pavements, paths, garages or out rooms;
- (e) for concrete mixing and block making;

(f) to fill leaking storage tanks and overflowing tanks.

(2) The tampering of the Water and Sewerage Company Inc (WASCO) infrastructure to divert or abstract water from its network.

(3) Any purpose which may require the use of a considerable or excessive quantity of water.

---