
WATER (INTEGRATED MANAGEMENT OF WATER RESOURCES) ORDINANCE 2014

This is a consolidated version of this legislation i.e. it incorporates all amendments made since the legislation was enacted as set out in the table below. It has been produced by the SBAA as an aid to transparency and easier access to SBA law. However, it is not the official version of SBA legislation and, although every effort has been made to check the document, its accuracy cannot be guaranteed. The official version of legislation is published in the SBA Gazette.

Legislation incorporated in this Consolidation	Ordinance	Date in Force
Water (integrated Management of Water Resources) Ordinance 2014	16/2014	01/06/2014
Water (integrated Management of Water Resources)(Amendment) Ordinance 2015	14/2015	30/10/2015
Criminal Procedure Ordinance 2016	09/2015	01/05/2016
Water (integrated Management of Water Resources)(Amendment) Ordinance 2017	08/2017	10/10/2017
<i>Transitional provision</i> <i>Sections 4 and 5 do not apply to applications for waterworks permits received before this Ordinance comes into force.</i>		

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WATER (INTEGRATED MANAGEMENT OF WATER RESOURCES) ORDINANCE 2014

An Ordinance to amend and consolidate the law relating to the management and protection of water resources

BE it enacted by the Administrator of the Sovereign Base Areas of Akrotiri and Dhekelia as follows:—

PART 1 PRELIMINARY

Short title and commencement

1. This Ordinance may be cited as the Water (Integrated Management of Water Resources) Ordinance 2014 and comes into force on 1 June 2014.

Interpretation

2. In this Ordinance

“abstract”, in relation to water, means taking water from a water source, either temporarily or permanently, including transferring water to another water source or another place in the same water source;

“authorised person” means a person authorised under section 120 and includes the Chief Officer;

“authorised water supplier” means—

- (a) a water supply board established under the Republic’s Water Supply (Municipal and other Areas) Law^(a);
- (b) a municipality which supplies water; or
- (c) any other local administrative council supplying water under legislative provisions;

“aquifer” means a subsurface layer or layers of rock or other geological strata of sufficient porosity and permeability to allow either a significant flow of groundwater or the abstraction of significant quantities of groundwater;

“bank”, in relation to a river, means the land on each side of the bed of a river to a distance of 1.8 metres from the edge of the bed;

“bed”, in relation to a river, means the land between the extreme boundaries of the water flow which is formed by the river, including a bank or island within these boundaries, other than a bank or island which are private property;

“borehole” means any shaft, borehole or well sunk for the purpose of abstracting water from underground and includes a chain of boreholes or wells;

“coastal water” means surface water on the landward side of a line, every point of which is at a distance of one nautical mile on the seaward side from the nearest point of the baseline from

(a) Cap. 350, Statute Laws of Cyprus, revised edition 1959.

which the breadth of territorial waters is measured, extending where appropriate up to the outer limit of transitional waters;

“community” has the meaning given in section 3 of the Overlapping Communities Ordinance 2001(a) and includes Akrotiri village;

“consumer” means a person supplied with water for human consumption;

“corresponding Republican Law” means Republican Law No. 79(I)/2010(b) (Integrated Water Management Law 2010) and includes amendments to that law made before and after the coming into force of this Ordinance;

“Crown” means the Crown in right of Government in the United Kingdom and in right of Administration of the Areas;

“domestic purposes” in relation to the supply of water means the supply for the normal use of persons residing in a private dwelling-house and—

(a) includes supply for the following purposes—

- (i) the purposes of a profession carried out in the dwelling-house;
- (ii) where the dwelling-house and other premises are used together for a carrying out a profession, and the dwelling-house is a bigger part of the total area used, the purposes of the profession carried out in the other part of the premises;
- (iii) purposes outside the dwelling-house which are connected to the use of the dwelling-house (including washing vehicles and watering gardens) and which may be served by the supply of water taken from a tap within the dwelling-house without the use of a hose or any other similar equipment;

(b) does not include supply for the following purposes—

- (i) the use of a swimming pool;
- (ii) the purposes of a laundry business;
- (iii) the purposes of a business for the preparation of foodstuffs or drinks for consumption outside the curtilage of the dwelling-house;

“driller’s licence” means a licence issued under section 106;

“general delegated function” means a general delegated function for the purposes of the Delegation of Functions to the Republic Ordinance 2007(c);

“groundwater” means all water which is below the surface of the ground in the saturation zone and in direct contact with the ground or subsoil;

“immovable property” has the meaning given in section 2 of the Immovable Property (Tenure, Registration and Valuation) Ordinance(d);

“impounding waterworks” means waterworks constructed for the purpose of—

- (a) retaining surface water; or
- (b) impeding, preventing or diverting the flow of surface water;

“impounding permit” means the permit referred to in section 81(1);

“industrial waste” has the meaning given in section 2 of the Sewerage Ordinance 2008(e);

“inland water” means all standing or flowing water on the surface of the land, and all groundwater on the landward side of the baseline from which the breadth of territorial waters is measured;

(a) Ordinance 27/2001; section 3 provides that expressions used in Ordinance 27/2001 have the same meaning as in the Republic’s Communities Law 86(I)1999.
(b) Republic of Cyprus Gazette Number 4252 of 23 July 2010.
(c) Ordinance 17/2007.
(d) Cap 224, Statute Laws of Cyprus revised edition 1959, as applied in the Areas by the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (SI 1960/1369, United Kingdom). Schedule 2 to the Interpretation Ordinance 2012 (Ordinance 8/2012) provides for the interpretation of such legislation.
(e) Ordinance 20/2008.

“irrigation association” means an association established under the Irrigation (Private Water) Associations Ordinance(a);

“irrigation committee” means the committee referred to in section 2 of the Irrigation Divisions (Villages) Ordinance(b); (c)

“irrigation division” means a division established under the Irrigation Divisions (Villages) Ordinance(d);

“irrigation water” means water which is used for irrigation, but not for human consumption;

“irrigation works” includes all waterworks for the purpose of irrigation and all works in connection with land drainage or the replenishment of an aquifer;

“land drainage” means draining land by carrying out works so as to avoid, or protect the land from, flooding or water saturation;

“local administrative council” means a community council or a municipal council(e);

“municipality” has the meaning given in section 3 of the Overlapping Municipalities Ordinance 2011(f);

“Nature Ordinance” means the Protection and Management of Nature and Wildlife Ordinance 2007(g);

“permit” means—

- (a) an impounding permit;
- (b) a water abstraction rights permit; or
- (c) a waterworks permit;

“public waterworks” has the meaning given in section 40;

“qualified delegated function” means a qualified delegated function for the purposes of the Delegation of Functions to the Republic Ordinance 2007(h);

“recipient area” means the area which benefits from the construction of a public waterworks;

“recycled water” means water derived from an urban or industrial sewage treatment plant;

“register” means the register of water rights adversely affected by a public waterworks which is prepared by the water commissioners in accordance with section 44;

“registered owner” means registered in accordance with the Immovable Property (Tenure, Registration and Valuation) Ordinance;

“regulations” means regulations made as a public instrument;

“river” means a body of inland water flowing for the most part on the surface of the land but which may flow underground for part of its course and includes a natural watercourse which is now dry;

“sea water” includes transitional waters, coastal water and territorial waters.

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- (a) Cap 115, Statute Laws of Cyprus revised edition 1959, as applied in the Areas by the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (SI 1960/1369, United Kingdom). Schedule 2 to the Interpretation Ordinance 2012 (Ordinance 8/2012) provides for the interpretation of such legislation. Cap 115 was amended by Ordinance 2/1990.
 - (b) Cap. 342, Statute Laws of Cyprus revised edition 1959, as applied in the Areas by the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (S.I. 1960/1369, United Kingdom). Schedule 2 to the Interpretation Ordinance 2012 (Ordinance 8/2012) provides for the interpretation of such legislation. Section 2 has been amended in ways not relevant to this Ordinance.
 - (c) Definition inserted by Ordinance 08/2017 – came into force on 10 October 2017
 - (d) Cap 342, Statute Laws of Cyprus revised edition 1959, as applied in the Areas by the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (SI 1960/1369, United Kingdom). Schedule 2 to the Interpretation Ordinance 2012 (Ordinance 8/2012) provides for the interpretation of such legislation. Cap 342 was amended by Ordinance 16/1991.
 - (e) Community council and municipal council are defined in section 35 of and Schedule 1 to the Interpretation Ordinance 2012.
 - (f) Ordinance 20/2011.
 - (g) Ordinance 26/2007.
 - (h) A qualified delegated function is a function to which section 22 of the Delegation of Functions to the Republic Ordinance 2007 applies.

“surface water” means inland water, except groundwater, transitional waters and coastal water, except in respect of chemical status for which it also includes territorial waters;

“transitional waters” are bodies of surface water in the vicinity of river mouths which are partly saline in character as a result of their proximity to coastal water but which are substantially influenced by freshwater flows;

“urban waste” includes liquid waste from domestic property, industrial waste and rainwater;

“waste” means urban waste and industrial waste discharged into a public sewerage works for treatment or urban or industrial waste;

“water abstraction rights permit” means the permit referred to in section 82(1);

“water catchment area” means the area which contains all the water sources which supply the recipient area;

“water commissioners” means the persons appointed by the Administrator under section 42(1);

“water for human consumption” is to be interpreted in accordance with the Quality of Water Intended for Human Consumption Ordinance 2002(a);

“water rights” means rights in respect of water which—

- (a) have been exercised without interruption for a period of 30 years or more so as to create a right in accordance with the Immovable Property (Tenure, Registration and Valuation) Ordinance;
- (b) have been distributed by way of firman or other valid title deed established before 4 June 1878 and exercised at the time firman or other deed was made; or
- (c) are exercised under any other legislative provision;

“water source” means surface water, groundwater or an aquifer and for the purposes of Part 8 includes sea water;

“waterworks” means—

- (a) boreholes, reservoirs, dams, weirs, tanks, cisterns, tunnels, filters, distillation basins, conduits, aqueducts, water treatment plants, desalination plants, urban or industrial sewage treatment plants, mains, pipes, fountains, sluices, valves, pumps, channels, engines; and
- (b) all other structures or appliances used or constructed so as to store, convey, supply, distribute, measure or regulate or otherwise use water or in relation to the replenishment of an aquifer, land drainage, protection of the water from pollution and protection of the land from floods or erosion;

“waterworks permit” means the permit referred to section 80(1).

Application to the Crown

3.—(1) Subject to the following provisions, this Ordinance does not—

- (a) bind the Crown;
- (b) apply to any activities on Crown land; or
- (c) apply to a person employed by or in the service of the Crown while in discharge of the person’s duties except insofar as its provisions expressly provide for functions to be exercised by the Administrator, the Chief Officer or an Area Officer.

(2) A failure in respect of the performance of a function under this Ordinance by the Administrator, the Chief Officer, an Area Officer or an authorised officer does not confer a right of action in private law.

(a) Ordinance 22/2002

(3) The Administrator, by order made as a public instrument, may apply any provision in this Ordinance to the Crown, Crown land or person specified in subsection (1)(c), subject to all necessary modification.

(4) In this section “Crown land” means land owned or occupied by the Crown in any capacity other than land owned (but not occupied) by the Crown solely in right of the Administration of the Areas.

Powers of Chief Officer: general

4. The Chief Officer has the powers of the Water Development Department in the corresponding Republican Law and these powers are general delegated functions.

General duty of Chief Officer

5. The Chief Officer has a general duty to facilitate the purpose of this Ordinance and this duty is a general delegated function.

Specific powers and duties of Chief Officer

6.—(1) The specific duties of the Chief Officer are to—

- (a) facilitate the implementation of plans to comply with legislation relating to the protection and management of water;
- (b) formulate recommendations to the Administrator relating to water policy, including the distribution of water and the management of public waterworks;
- (c) facilitate the supply of water of an appropriate quality for domestic and non-domestic use;
- (d) inspect developments which may affect the banks or beds of rivers;
- (e) conduct safety inspections of dams and reservoirs;
- (f) monitor, study, manage and develop water resources;
- (g) regulate the use of water resources through the grant of permits and licences provided for by this Ordinance and enable compliance with the conditions of the permits or licences;
- (h) plan, design, construct, operate, maintain, repair, improve or alter public waterworks;
- (i) plan, design and construct sewerage works and monitor their operation in accordance with Part 5;
- (j) provide advice on the planning, design, construction, maintenance, repair, alteration of, or improvement to, water or irrigation projects or sewerage systems;
- (k) collect, assess and maintain data and information regarding available water resources and their quality, and advise and provide information about them;
- (l) advise the Administrator about any matter relevant to the management of water that the Administrator refers to the Chief Officer for advice;
- (m) construct, maintain and operate hydrometric projects and quality control laboratories and other laboratories and installations which may be necessary for the purpose of this Ordinance;
- (n) keep records and data banks, conduct and publish studies, make recommendations and take any other action which is required for the effective implementation of this Ordinance.

(2) The Chief Officer has the power to take such action as is necessary in exercise of the powers and duties under this Ordinance, and in particular, has the power to—

- (a) obtain services from or collaborate with any person;
- (b) purchase water or acquire or obtain it from any person;
- (c) delegate to any other person powers and duties under this Ordinance;

- (d) impose and collect fees, charges and any other monetary consideration, in accordance with the provisions of this Ordinance.
- (3) The functions of the Chief Officer specified in this section are general delegated functions.
- (4) In this section “sewerage works” has the meaning given in section 30(d).

Determination of water policy

7.—(1) The Administrator is to determine the policy in the Areas for —

- (a) the supply and distribution of water;
- (b) charging for water;
- (c) use of recycled water;
- (d) the construction of waterworks;
- (e) projects to replenish aquifers, land drainage, the protection of water from pollution and the protection of land from flooding.

(2) The policy is to be kept under review by the Joint Water Committee established under paragraph 3 of section 8 of Part 2 of Annex B to the Treaty of Establishment.

Establishment of water management advisory committee

8. The Administrator may establish a water management advisory committee (“WMAC”) to advise on water policy in the Areas and appoint one of the members as the chairperson.

Meetings of water management advisory committee

9. If established, the WMAC is to meet at such intervals as the chairperson determines.

Powers of water management advisory committee

10. The WMAC may make recommendations to the Administrator, but its recommendations are not binding.

Referral to water management advisory committee

11. Where the Administrator determines that an issue is to be considered by the WMAC, the Administrator is to determine the period in which it must make a recommendation.

PART 2

GENERAL MANAGEMENT AND CONTROL OF WATER RESOURCES

Management of water resources

12. All water resources in the Areas are to be managed and protected in accordance with this Ordinance and the Control of Water Pollution Ordinance 2005(a).

Inland waters property of the Crown

13. Subject to existing waters rights, inland waters in the Areas and waters which come from public treatment plants, public desalination plants, public sewerage plants and any other public waterworks are the property of the Crown in right of the Administration of the Areas.

(a) Ordinance 1/2005, amended by Ordinance 5/2009.

Prohibition on taking water without permit

14.—(1) Subject to existing water rights, a person may not abstract or use water to which section 13 applies unless the person has a permit under this Ordinance or has the written consent of the Chief Officer.

(2) In addition to the permits granted under Part 8, the Chief Officer may consent to the use of water for fish farming or recreational purposes and subject to such terms, conditions or restrictions as the Chief Officer considers appropriate.

(3) Where consent has been given to use water under subsection (2), if the circumstances change, the Chief Officer may do, such as can be justified in the public interest, any of the following—

- (a) vary the terms, conditions or restrictions;
- (b) impose new terms, conditions or restrictions;
- (c) revoke the consent.

(4) The functions of the Chief Officer specified in this section are qualified delegated functions.

Water resources: protection measures

15.—(1) The Chief Officer may take such measures as are necessary and expedient in order to protect, preserve, redistribute, replenish, re-instate or increase water resources and, in particular, to—

- (a) artificially replenish or increase of groundwater by using water derived from the treatment of sewage or surface water, providing that the water so used does not pollute existing groundwater or the eco-systems which depend on it;
- (b) limit the amount of water which may be taken in order to preserve and protect water resources;
- (c) impose restrictions on the use of water in order to meet qualitative and quantitative standards; and
- (d) manage demand, recycle water and desalinate water.

(2) The functions of the Chief Officer specified in this section are general delegated functions.

Maintenance of waterworks in the Areas

16.—(1) In order to prevent the loss of water, the Chief Officer may—

- (a) ensure that public waterworks in the Areas are maintained; and
- (b) facilitate the repair of public waterworks.

(2) Despite provisions in any other Ordinance, authorised water suppliers, irrigation divisions and irrigation associations have the obligations specified in subsection (1).

(3) The functions of the Chief Officer specified in this section are general delegated functions.

PART 3

WATER SUPPLY

Water for human consumption

17.—(1) The Chief Officer must ensure that—

- (a) adequate quantities of water for human consumption are supplied for distribution to authorised water suppliers and consumers; and

- (b) the water complies with the requirements of the Quality of Water Intended for Human Consumption Ordinance 2002.

(2) The functions of the Chief Officer specified in this section are general delegated functions.

Restrictions in supply of water for domestic purposes

18.—(1) Despite section 17, the Chief Officer may limit the supply of water for domestic purposes where this is necessary—

- (a) due to drought;
- (b) due to a reduction in water resources; or
- (c) in order to protect water resources.

(2) The functions of the Chief Officer specified in this section are general delegated functions.

Supplies to consumers: exceptional cases

19.—(1) In exceptional cases, the Chief Officer may agree to the direct supply of water to consumers.

(2) An agreement under subsection (1) may include any terms which the Chief Officer considers fulfils the purpose of this Ordinance, or any other Ordinance, relating to the protection or management of water.

(3) The functions of the Chief Officer specified in this section are general delegated functions.

Delivery and metering of water

20.—(1) Unless otherwise provided in any other Ordinance regulating the management and protection of water, water supplied to an authorised water supplier under this Part is to be delivered and metered at such points and in such manner as is determined by the Chief Officer.

(2) The function of the Chief Officer specified in this section is a general delegated function.

Obligations of authorised water suppliers

21. An authorised water supplier to whom water is supplied under this Ordinance, or who takes water in accordance with a permit, is responsible for supplying water to consumers.

Non-supply of water due to drought, frost, etc.

22. The Chief Officer is not required to supply water under this Part where supply is limited or ceases due to—

- (a) drought;
- (b) frost,
- (c) flooding;
- (d) an unavoidable accident;
- (e) any other event outside the Chief Officer's control; or
- (f) the carrying out of necessary works to maintain the water supply.

Monitoring and control of water

23.—(1) The Chief Officer must ensure that there are systems in place to monitor and control the quality of water for human consumption supplied under this Part to ensure that it meets the standards required in the Quality of Water Intended for Human Consumption Ordinance 2002.

(2) The monitoring and control referred to in subsection (1) may be carried out—

- (a) at water treatment plants;

- (b) at water production plants;
- (c) at water sources;
- (d) at any point in the supply network;
- (e) within the tanks of authorised water suppliers; and
- (f) in any other manner the Chief Officer may decide.

(3) The functions of the Chief Officer specified in this section are general delegated functions.

Irrigation works of local administrative council

24.—(1) At the request of a local administrative council, the Chief Officer may—

- (a) plan and design irrigation works on behalf, and for the benefit, of the municipality or the community;
- (b) undertake, on behalf of the local administrative council, any required construction, modification or improvement works as well as any specialised maintenance or repair work of irrigation works;
- (c) ensure that the conduct of the works referred to in paragraph (b) is assigned by the local administrative council to any other person, as the Chief Officer considers appropriate in the circumstances; or
- (d) by agreement, act as a technical advisor to the local administrative council as regards the functioning of irrigation works.

(2) The functions of the Chief Officer specified in this section are general delegated functions.

PART 4

IRRIGATION AND OTHER PURPOSES

Water for irrigation and other purposes

25.—(1) Subject to Part 6, the Chief Officer must ensure that irrigation water is supplied for irrigation and other purposes to irrigation divisions or any other person who needs such water—

- (a) under such reasonable conditions and requirements as the Chief Officer considers appropriate; or
- (b) where the supply of such water is regulated by legislation regarding the management of public waterworks, in accordance with the provisions of that legislation.

(2) The irrigation water supplied under subsection (1) is to be delivered and measured at such points, and in such manner, as determined by the Chief Officer, unless there is a special provision in any legislation regarding the management of public waterworks, which regulates the supply of that water.

(3) The functions of the Chief Officer specified in this section are general delegated functions.

Obligations of irrigation divisions

26. An irrigation division to which water is supplied under this Ordinance, or which takes water under a permit to take water, must supply the water to its members in accordance with the Irrigation Divisions (Villages) Ordinance.

Control of water for irrigation purposes

27.—(1) The Chief Officer must—

- (a) ensure that there are systems in place to monitor and control the quality of the irrigation water which is supplied for irrigation and other purposes under this Ordinance; and

- (b) provide information about the quality of water supplied.
- (2) The information referred to in subsection (1)(b) may be provided by way of publication, or in any other manner the Chief Officer considers appropriate.
- (3) The Chief Officer does not breach subsection (1) if the water is used for a purpose for which, due to its quality,—
 - (a) the water is unsuitable;
 - (b) the use of the water for that particular purpose is unlawful.
- (4) The functions of the Chief Officer specified in this section are general delegated functions.

Planning, design and construction of irrigation works

- 28.**—(1) The Chief Officer is to plan and design irrigation works for irrigation divisions in co-operation with the appropriate Area Officer.
- (2) An irrigation division may request that the Chief Officer arranges to undertake—
 - (a) any works required for the construction, modification or improvement of irrigation systems; or
 - (b) any specialised maintenance or repair work of irrigation systems.
 - (3) The Chief Officer may—
 - (a) arrange to undertake the works referred to in subsection (2); or
 - (b) request the irrigation division to delegate the carrying out of the works to some other person whom the Chief Officer considers to be appropriate in the circumstances.
 - (4) The functions of the Chief Officer and the Area Officer specified in this section are general delegated functions.

Advice to irrigation divisions

- 29.**—(1) At the request of an irrigation division, the Chief Officer may act as a technical advisor to the division in relation to the functioning of the division's irrigation works.
- (2) The function of the Chief Officer specified in this section is a general delegated function.

PART 5

URBAN SEWERAGE

Interpretation of Part 5

- 30.** In this Part, the following terms have the meaning given in section 2(1) of the Sewerage Ordinance 2008^(a)—
- (a) private sewer;
 - (b) recognised Board;
 - (c) sewage treatment plant; and
 - (d) sewerage works.

Establishment of sewerage systems and advice to recognised Boards

- 31.**—(1) The Chief Officer has the same powers and duties as those conferred or imposed by Part 5 of the corresponding Republican Law in relation to—

^(a) Ordinance 20/2008.

- (a) the establishment of public and private sewerage works and sewage treatment plants;
- (b) providing advice to and co-operating with a recognised Board or a local administrative council.

(2) The functions of the Chief Officer specified in this section are general delegated functions.

Establishment of storm water sewerage system

32. The Administrator, by order made as a public instrument, may change the areas in which a recognised Board may establish, operate or maintain sewerage or drainage works in the Areas in order to make provision for a storm water sewerage system.

Technical adviser to local administrative council

33.—(1) A local administrative council may request the Chief Officer to act as technical adviser in respect of the establishment, maintenance or improvement of a sewerage system.

(2) The function of the Chief Officer specified in this section is a general delegated function.

Technical adviser to recognised Board

34.—(1) The Chief Officer may act as a technical advisor to a recognised Board and has the same powers as those conferred by the corresponding Republican Law in relation to this function.

(2) The function of the Chief Officer specified in this section is a general delegated function.

Permit in protected zones

35.—(1) The construction of a private sewer or a private sewage treatment plant must be approved by the Chief Officer.

(2) When granting approval, the Chief Officer must be satisfied that the construction does not adversely affect a protected zone.

(3) In this section, a “protected zone” means a body of water used, or intended to be used, for the abstraction of water for human consumption—

- (a) of more than an average of 10 cubic metres per day; or
- (b) serving more than 50 people.

(4) The function of the Chief Officer specified in this section is a qualified delegated function.

Disposal of water from sewerage treatment

36.—(1) The Chief Officer may make arrangements with a recognised Board for the receipt of water which is the product of a sewage treatment plant, and dispose of it in such a way that it does not affect a water source or the environment.

(2) The function of the Chief Officer specified in this section is a qualified delegated function.

PART 6

PUBLIC WATERWORKS

Plans to undertake public waterworks

37.—(1) For the purposes of this Ordinance, or any other Ordinance relating to the protection or management of waters, and subject to the instructions of the Administrator, the Chief Officer may take measures—

- (a) to use the water belonging to the Crown to replenish an aquifer;

- (b) for land drainage;
- (c) to protect land from floods or erosion; and
- (d) relating, in general, to the protection or management of water.

(2) In particular, the Chief Officer may—

- (a) store, divert, control and manage water belonging to the Crown in any manner the Chief Officer considers appropriate;
- (b) submit recommendations to the Administrator relating to the undertaking or management of any public waterworks;
- (c) grant consent for the use of a public waterworks for the purpose of fish farming or for recreational purposes, on payment of specified fees and under conditions which are determined in regulations.

(3) In this section “specified fees” means the fees specified in the corresponding Republican Law.

(4) The functions of the Administrator and Chief Officer specified in this section are qualified delegated functions.

Construction of public waterworks

38.—(1) Where the Administrator has approved the construction of a public waterworks in the Areas, the Chief Officer must make arrangements for the construction works to be undertaken and monitor implementation.

(2) The duties in subsection (1) include the purchase, leasing and the making of recommendations relating to compulsory acquisition of immovable property necessary for the construction of the public waterworks.

(3) The functions of the Chief Officer specified in this section are qualified delegated functions.

Existing irrigation works

39.—(1) If irrigation works used or constructed under the provisions of the Irrigation Divisions (Villages) Ordinance or the Irrigation (Private Water) Associations Ordinance are no longer being used, or does not function in a satisfactory manner, the Administrator may direct that the works are managed and maintained under this Ordinance.

(2) If the Administrator makes a direction under subsection (1), the Chief Office is to manage and maintain the works and is subject to the burdens and the rights and privileges arising from the works.

(3) The functions of the Administrator and the Chief Officer specified in this section are general delegated functions.

Public waterworks

40.—(1) The following waterworks are “public waterworks”—

- (a) any waterworks which have been determined as public waterworks under the Public Waterworks Ordinance^(a);
- (b) any waterworks which have been constructed by or on behalf of the Crown in any other manner under the Public Waterworks Ordinance, or which are used as public waterworks in the Areas at the commencement of this Ordinance, without having been determined as public waterworks;

(a) Cap 341, Statute Laws of Cyprus revised edition 1959, as applied to and adapted in the Areas by the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (SI 1960/1369, United Kingdom). Schedule 2 to the Interpretation Ordinance 2012 (Ordinance 8/12) provides for the interpretation of such legislation, and paragraph 2 of Schedule 5 to that Ordinance makes provision as to the short title of Cap 341. Cap 341 was amended by Ordinances 4/1969 and 3/2001.

- (c) any waterworks which are being constructed by or on behalf of the Crown in any other manner under this Ordinance, other than those constructed on behalf of—
 - (i) an authorised water supplier;
 - (ii) an irrigation division;
 - (iii) an irrigation association;
 - (iv) a recognised Board; or
 - (v) any other person.

(2) The Administrator, by Order made as a public instrument, may determine that a particular waterworks is a “public waterworks”.

(3) In this section “recognised Board” has the meaning given in section 30(b).

Water catchment area and recipient area: determination by order

41. The Administrator, by order made as a public instrument, may designate or alter a water catchment area or a recipient area.

Appointment of water commissioners

42.—(1) If the Chief Officer considers that existing water rights will or may be adversely affected by the construction of a public waterworks, the Administrator must appoint 3 persons as water commissioners.

(2) The duties of the water commissioners are to investigate and certify the nature of the rights and the owners of the rights in accordance with this Part.

(3) The functions of the Administrator and Chief Officer specified in this section are qualified delegated functions.

Investigation by water commissioners

43.—(1) The water commissioners must conduct an investigation to establish the existence of water rights and the nature of those rights in accordance with this section and section 44.

(2) The water commissioners must ensure that at least 1 month prior to the conduct of the investigation a notice is—

- (a) published in at least 2 daily newspapers circulating in the Areas; and
- (b) affixed in a conspicuous place in every municipality or community that may be affected by the investigation.

(3) The notice must invite all persons who claim to have existing water rights adversely affected by the public waterworks to—

- (a) appear before the water commissioners; and
- (b) present evidence to support the claim to water rights and how the rights will or may be adversely affected by the construction of the public waterworks.

(4) For the purposes of the investigation, the water commissioners may require the presence of any person by means of summons, if that person’s presence or evidence is considered necessary to investigate or settle any issue arising during the investigation.

(5) A person must—

- (a) attend an investigation following a summons;
- (b) answer any questions put by the water commissioners in relation to the investigation;
- (c) provide a relevant document required by the water commissioners.

(6) The water commissioners may take evidence on oath or affirmation.

(7) A person who contravenes subsection (5) without reasonable cause, commits an offence and is liable, on conviction, to a fine not exceeding €250.

(8) A person who intentionally gives false evidence on oath or affirmation is guilty of an offence and is liable, on conviction, to the same penalties as if the person had given false evidence during court proceedings.

Register of water rights adversely affected

44.—(1) Upon the completion of the investigation, the water commissioners must decide and record in a register of water rights adversely affected (“the register”) the following—

- (a) a record of every pipe currently in use by any person in the exercise of a water right which in the opinion of the water commissioners will be adversely affected;
- (b) the average area, which in the 5 years preceding the date of the investigation, was legally irrigated from every pipe referred to in paragraph (a), where the average area is determined on the basis of the 3 years (during the last 5 years) which the area with the highest surface area has been irrigated;
- (c) the average frequency with which the area referred to in paragraph (b) was irrigated for each of the preceding 5 years, and whether the irrigation was for summer or winter cultivation, or for both;
- (d) a record of every pipe no longer in use at the date of the investigation, the average of the surface area that was legally irrigated using that pipe and whether the land was irrigated for winter or summer cultivation, or both, if the water commissioners are satisfied that the pipe—
 - (i) was used in the exercise of a water right at any time during the 10 years preceding the date of the investigation;
 - (ii) is not used because the person who is entitled to use it is a minor, mentally or physically incapable, absent from the Areas or has no financial means; or
 - (iii) may be adversely affected by the proposed public waterworks;
- (e) any other information which is necessary or may help in the measurement of the quantity of water taken or which may be taken under an existing water right which may be adversely affected;
- (f) the nature and extent of every water right used to serve any mill or machinery or for any other purpose, which in the opinion of the water commissioners may be adversely affected; and
- (g) any other information relating to the nature, the extent or the exercise of a water right, as may be determined by the Administrator when appointing the water commissioners.

(2) The water commissioners must prepare a chart and attach it to the register, showing the position and the course of each pipe adversely affected and the location and the extent of the land that is irrigated from the pipes.

(3) The function of the Administrator specified in subsection (1)(g) is a qualified delegated function.

Submission and publication of register

45.—(1) The water commissioners must—

- (a) sign the register unless there is a disagreement about the contents of the register in which case the signature of 2 of the commissioners is sufficient to signify agreement;
- (b) submit 1 copy of the register to the Chief Officer;
- (c) submit 1 copy of the register to the Area Officer for the Area where the water rights adversely affected are situated;
- (d) publish a notice in at least 2 daily newspapers circulating in the Areas stating that—
 - (i) the register has been submitted as required by this subsection; and

- (ii) a person objecting to any entry in the register may make an objection in accordance with subsection (2).

(2) The Chief Officer must publish a notice in the Gazette, as soon as reasonably practicable after receipt of the register, setting out the time limit and the procedure (specified in section 47) for making an objection.

Objections: general

46.—(1) The Chief Officer or a person objecting to an entry in, or an omission from, the register may file an objection, in accordance with section 47.

(2) If the Chief Officer disagrees with an entry in the register, the Chief Officer may, with the consent of all interested parties, amend the register.

(3) The functions of the Chief Officer specified in this section are qualified delegated functions.

Objections: procedure

47.—(1) An objection to an entry in, or an omission from, the register must be filed in the Resident Judge's Court within 2 months, starting with the date of the publication of the notice referred to in section 45(2).

(2) The Resident Judge's Court has full jurisdiction to hear and determine an objection filed under this section, and may make any order it considers appropriate.

Register: final and conclusive

48.—(1) Subject to any amendments made under section 46(2), and the determination of any objections filed under section 47(1), the register is final at the end of the period of 2 months starting with the date of publication of the notice in the Gazette referred to in section 45(2).

(2) The effect of the register being final is that for the purpose of this Ordinance it is conclusive evidence of all matters recorded in it.

Termination or limitation of water rights recorded in register

49.—(1) The Chief Officer must ensure that the water rights adversely affected which are recorded in the register are terminated or limited before the commencement of the construction of public waterworks.

(2) The Chief Officer may terminate or limit a water right by—

- (a) compulsory acquisition of the right under section 118; or
- (b) agreement with the owner of the right under section 119.

(3) Except for the power of compulsory acquisition of a water right, the functions of the Chief Officer specified in section are qualified delegated functions.

Specification to be drawn up by water commissioners

50.—(1) As soon as possible after the designation of the recipient area for a public waterworks, the water commissioners appointed under section 42, or appointed specifically for the purposes of this section, must draw up a specification relating to land ("benefitting land") which, and persons ("benefitting persons") who, will or may benefit from the project.

(2) In relation to the supply of water for irrigation, the specification must specify—

- (a) the benefitting land, its area and the names of the owners or occupiers;
- (b) the names of other benefitting persons, including irrigation divisions or irrigation associations.

(3) In relation to the supply of water for human consumption, the specification must specify—

- (a) the names of benefitting persons who will or may be consumers; and

- (b) the names of the authorised suppliers of water who will or may benefit from the waterworks.

(4) For the purpose of this section, the water commissioners may take evidence on oath or affirmation.

(5) A person who intentionally gives false evidence on oath or affirmation is guilty of an offence and is liable, on conviction, to the same penalties as if the person had given false evidence during court proceedings.

Specification: sections 45 to 48 have effect

51. Sections 45 to 48 have effect in relation to a specification, and for this purpose references to the “register” are to be read as references to the “specification”.

Management of public waterworks and regulations

52.—(1) The Chief Officer is to undertake the management of a public waterworks in accordance with this Ordinance and the corresponding Republican Law.

(2) The Administrator may make regulations relating to the management of a public waterworks.

(3) Without limit to the power under subsection (2), the regulations may—

- (a) appoint a person or a committee other than the Chief Officer to manage the project; and
- (b) delegate functions by reference to the Delegation of Functions to the Republic Ordinance 2007.

(4) If regulations appoint a person other than the Chief Officer to manage a public waterworks, the regulations must include—

- (a) a power for the Chief Officer, with the approval of the Administrator, to terminate that appointment;
- (b) provisions relating to the budget of the project and requirements for the approval of expenditure by the Administrator; and
- (c) a requirement for the Administrator to approve the creation of new posts relating to the management of the project and the remuneration and terms of conditions of persons appointed to the new posts.

(5) The functions of the Chief Officer specified in this section are general delegated functions.

Supplementary powers to facilitate a project

53.—(1) This section applies where the construction of a public waterworks obstructs or adversely affects an existing right of way or right of flow of water.

(2) The Administrator may—

- (a) construct and maintain—
 - (i) crossing points;
 - (ii) bridges;
 - (iii) weirs; or
 - (iv) other passages; or

(b) compulsorily acquire the right of way or right of flow of water.

(3) For the purpose of subsection (2)(a), the Administrator may acquire immovable property through compulsory purchase as if the property was required directly for the public waterworks.

(4) Except for the power to compulsorily acquire immovable property, the functions of the Administrator specified in this section are qualified delegated functions.

Collection of fees and charges

54.—(1) Fees, charges and any other monetary consideration imposed under this Ordinance in relation to public waterworks are to be collected—

- (a) if the Chief Officer undertakes the management of the waterworks, by the Chief Officer;
 - (b) if another person undertakes the management of the waterworks, by that person.
- (2) The functions of the Chief Officer specified in this section are general delegated functions.

Offences and penalties

55.—(1) A person who intentionally causes damage to or destroys a public waterworks, or intentionally interferes with the flow, or distribution, of water connected with a public waterworks commits an offence and is liable, on conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding €8,500, or to both.

(2) A person who negligently or by omission causes damage to or destroys a public waterworks, or interferes with the flow, or distribution, of water connected with a public waterworks commits an offence and is liable, on conviction, to imprisonment for a term not exceeding 3 months or a fine not exceeding €850, or to both.

(3) A person who, without lawful authority, takes, transports, withdraws or diverts water from a public waterworks commits an offence and is liable, on conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding €8,500, or to both.

(4) Where a person is convicted of an offence under this section, a court may, in addition to imposing a penalty specified in subsections (1) to (3), order—

- (a) that the convicted person removes, at that person's expense any construction or material, or both, that were used to acquire or use water in contravention of this section, within the time period determined in the order, which must not exceed 3 months
- (b) the confiscation of any machinery, tools or any other objects that were used in relation to the offence committed;
- (c) the payment to the Chief Officer of a sum equivalent to the value of the water that is proved, or is reasonably estimated, to have been taken or used without lawful authority; and
- (d) anything that the court may consider necessarily incidental to the offence having regard to all the circumstances.

(5) If the person against whom the court order was made under subsection (4) fails to comply with the order, the court must, without prejudice to its power to impose a penalty for contempt of court, authorise the taking of the necessary measures by any other person in order to enforce the order.

(6) The expenses incurred in enforcement under subsection (5) may be collected from the convicted person as a fine.

(7) The function of the Chief Officer specified in this section is a qualified delegated function.

PART 7

SAFETY OF RESERVOIRS

Interpretation and application of Part 7

56.—(1) In this Part—

“competent authority” in relation to a reservoir means—

- (a) an authorised water supplier, where the reservoir is constructed or managed by such a supplier;

- (b) a person using a reservoir, or authorised to use a reservoir, where the reservoir is constructed, used or intended for use for a specified activity; or
- (c) in any other case, a person owning or renting the reservoir or the land on which a reservoir is constructed, but if there is no such person, the Chief Officer;

“construction engineer” means an engineer appointed under section 62(1);

“engineer” means a qualified civil engineer on the list maintained in accordance with section 61;

“final certificate” means the certificate issued under section 63(5) and includes any annexes to that certificate;

“independent engineer” means an engineer who—

- (a) is not employed by the competent authority other than in the capacity of a consultant; and
- (b) is not—

- (i) the construction engineer;
- (ii) an engineer acting under section 64 or 65;
- (iii) the supervising engineer; or
- (iv) an engineer who has or has had any other connection with the reservoir; and

- (c) has no connection with an engineer referred to in paragraph (b) by virtue of working with that engineer as a partner, employer, employee or colleague;

“inspecting engineer” means an engineer appointed under section 66(1);

“large raised reservoir” means a reservoir—

- (a) with a capacity of 25,000 cubic metres or more; and
- (b) capable of holding water above the natural level of surrounding land;

“preliminary certificate” means the certificate issued under section 63(1);

“reservoir” includes any place where water is held by artificial means so as to create a lake, irrespective of how the water is used;

“supervising engineer” means an engineer appointed under section 68(1);

“water” includes recycled water, sewerage and liquid waste.

(2) Subject to sections 78 and 79, this Part applies to large raised reservoirs whether constructed before or after the coming into force of this Ordinance.

(3) The failure of a competent authority to comply with this Part does not confer a right of action in private law.

Chief Officer to ensure compliance with this Part

57. The Chief Officer must ensure that a competent authority complies with this Part, and this function is a general delegated function.

Application of this Part to public waterworks

58.—(1) This Part applies to large raised reservoirs constructed as public waterworks.

(2) Where a reservoir is constructed as a public waterworks, a reference to a function imposed on a competent authority is to be construed as a function imposed on the Chief Officer.

(3) The function of the Chief Officer specified in this section is a general delegated function.

Record of reservoirs

59.—(1) The Chief Officer is to keep a record of large raised reservoirs with such information about them as may be required by the corresponding Republican Law.

(2) The record is to be deposited with each Area Officer and available for inspection during normal office hours.

(3) The functions of the Chief Officer and an Area Officer specified in this section are general delegated functions.

Reports to Administrator

60.—(1) The Chief Officer is to submit reports to the Administrator, at such intervals as the Administrator may determine, about steps taken to ensure that a competent authority complies with this Part.

(2) The functions of the Chief Officer and the Administrator specified in this section are general delegated functions.

List of qualified civil engineers

61.—(1) The Chief Officer is to keep a list of qualified civil engineers for the purpose of this Part.

(2) The list is to be compiled in accordance with the corresponding Republican Law.

(3) The function of the Chief Officer specified in this section is a general delegated function.

Construction or alteration of reservoirs

62.—(1) The competent authority must appoint an engineer (a “construction engineer”) to design and supervise the—

- (a) construction of a large raised reservoir;
- (b) alteration of a large raised reservoir so as to increase its capacity; or
- (c) alteration of a reservoir to increase its capacity so it becomes a large raised reservoir.

(2) A person may only fill, or store water in, a large raised reservoir under construction or alteration in accordance with a certificate issued by the construction engineer.

(3) The reservoir remains under the supervision of the construction engineer until the engineer issues a final certificate under section 63.

(4) A person who contravenes this section commits an offence.

Certificates to be issued by construction engineer

63.—(1) The construction engineer must issue a preliminary certificate when the engineer is satisfied that a large raised reservoir under construction or alteration may be filled or partly filled with water.

(2) The preliminary certificate —

- (a) may be subject to such conditions and limits as to the amount of water to be held as the construction engineer considers appropriate;
- (b) has effect until a final certificate is issued; and
- (c) may be withdrawn, replaced or amended at any time before a final certificate is issued.

(3) If, during the alteration of a large raised reservoir so as to increase its capacity, the construction engineer considers that the amount of water stored in the reservoir should be reduced, or the conditions under which it is stored should be changed, the construction engineer must issue an interim certificate to that effect.

(4) The interim certificate—

- (a) has effect until a preliminary certificate is issued under subsection (1); and
- (b) may be withdrawn, replaced or amended at any time before a final certificate is issued.

(5) If, at the end of the period 3 years, starting with the issue of the first preliminary certificate, the construction engineer is satisfied that the reservoir is in good condition and may safely be used for the storage of water, the engineer must issue a final certificate.

(6) If, at the end of the period 5 years, starting with the issue of the first preliminary certificate, the construction engineer has not issued a final certificate, the engineer must provide the competent authority with written reasons for the delay.

(7) The final certificate must specify—

- (a) the amount and depth of water which may be stored;
- (b) any conditions under which the water may be stored; and
- (c) any matters which may require supervision by the supervising engineer prior to an inspection under this Part.

(8) As soon as reasonably practicable after the completion of the construction or alteration of a large raised reservoir, and in no case no later than the issue of a final certificate, the construction engineer must also issue a certificate that the works have been carried out in a satisfactory manner and in accordance with the plan and design for the construction or alteration of the reservoir.

(9) The construction engineer must attach as an annex to the certificate issued under subsection (8)—

- (a) a detailed drawing and a description of works actually constructed, including dimensions and levels; and
- (b) details of geological strata or deposit encountered in trial holes or excavations made in connection with the works.

Instructions to appoint engineer

64.—(1) The Chief Officer may send a written notice (which may be served by post) to the competent authority if it appears to the Chief Officer that—

- (a) a construction engineer has not been appointed in accordance with section 62(1); or
- (b) a reservoir has been constructed or altered in the circumstances specified in section 62(1) and a final certificate has not been issued.

(2) The written notice may require the competent authority to—

- (a) appoint an engineer within 28 days to carry out the role of construction engineer, unless a person has already been appointed; and
- (b) notify the Chief Officer of the person appointed under paragraph (a) or already appointed, as the case may be.

(3) An engineer appointed for the purposes of this section must inspect the reservoir, prepare a report about its construction or alteration and supervise the construction or alteration of the reservoir until a final certificate is issued.

(4) If the engineer makes recommendations of measures required on grounds of safety these recommendations must be included in the report under subsection (3) and, subject to section 73 (referral of recommendations to arbitration), the competent authority must comply with any such recommendations.

(5) Subject to subsections (6) and (7)—

- (a) an engineer acting under this section has the same powers and duties in relation to the issue of a preliminary certificate, an interim certificate and a final certificate as if the engineer was the construction engineer; and
- (b) a certificate issued under this subsection is valid for the purposes of this Part, as if it was a certificate issued by the construction engineer.

(6) The engineer may issue a final certificate earlier than the end of the period of 3 years from the issue of the first preliminary certificate or without the issue of the preliminary certificate if the engineer is satisfied that—

- (a) for a period of 3 years or more—
 - (i) the reservoir has been used for the storage of the amount of water specified in the preliminary certificate; or
 - (ii) if no preliminary certificate has been issued, the reservoir has been used for the storage of the amount of water which is specified in the final certificate; and
- (b) the reservoir is in a good condition and may be used safely to store water.

(7) A final certificate under this section, other than the final certificate issued under subsection (6), is not required to contain a statement that the engineer is satisfied and that the reservoir is in a good condition.

(8) If the certificate does not state that the reservoir is in good condition, and the report specified in subsection (3) includes recommendations of measures required on grounds of safety, the certificate must certify that there has been compliance with the recommendations.

(9) In addition to the certificates issued under subsection (5), the engineer must issue a certificate in accordance with section 63(8), verifying as far as is possible that the works have been carried out in a satisfactory manner and in accordance with the plan and design for the construction or alteration of the reservoir.

(10) The engineer must attach as an annex to the certificate issued under subsection (9), as much information as reasonably practicable about the matters specified in section 63(9).

(11) A competent authority who fails to comply with a notice issued by the Chief Officer under subsection (1) or contravenes subsection (4) commits an offence.

(12) The functions of the Chief Officer specified in this section are general delegated functions.

Re-use of abandoned reservoirs

65.—(1) Where the use of a large raised reservoir as a reservoir has been abandoned (whether before or after the coming into force of this Ordinance), the reservoir may not be re-used as a reservoir unless an engineer has been appointed to—

- (a) inspect the reservoir;
- (b) prepare a report about it; and
- (c) supervise any construction or maintenance works required until the engineer issues a preliminary certificate about its use.

(2) A person may only fill, or store water in, a large raised reservoir converted for reuse in accordance with a certificate issued by the engineer.

(3) If the engineer makes recommendations of measures required on grounds of safety these recommendations must be included in the report under subsection (1) and, subject to section 73 (referral of recommendations to arbitration), the competent authority must comply with any such recommendation.

(4) Section 64(5), (7) and (8) have effect in relation to the issue of certificates by the engineer.

(5) The Chief Officer may send a written notice (which may be served by post) to the competent authority if it appears to the Chief Officer that a construction engineer has not been appointed where —

- (a) a large raised reservoir which had been abandoned is being re-used, but a report has not been obtained as required by this section; or
- (b) a report, obtained under this section, includes recommendations about the measures which are required on grounds of safety, but there has not been compliance with these recommendations.

(6) The written notice may require the competent authority to—

- (a) appoint an engineer within 28 days to carry out the role of construction engineer, unless a person has already been appointed;

- (b) notify the Chief Officer of the person appointed under paragraph (a) or already appointed, as the case may be; and
 - (c) obtain a report or comply with recommendations to take measures on grounds of safety, as the case may be, within a period specified in the notice.
- (7) Where the Chief Officer intends to send a notice under subsection (5) which requires the competent authority to comply with a recommendation, the Chief Officer must consult an engineer as to the time period for compliance to be specified in the notice.
- (8) This section does not apply in relation to a reservoir if before its use is re-established—
- (a) it is modified in such a manner that it is considered to be a construction of a new reservoir for the purposes of this Ordinance; or
 - (b) it is modified under the supervision of an engineer in such a manner that it is not a large raised reservoir when its use is re-established.
- (9) A competent authority who contravenes subsections (1) to (3), or who fails to comply with a notice sent by the Chief Officer under subsection (5), commits an offence.
- (10) The functions of the Chief Officer specified in this section are general delegated functions.

Inspection of large raised reservoirs

66.—(1) The competent authority must appoint an independent engineer (an “inspecting engineer”) and ensure that a large raised reservoir is inspected in accordance with this section.

(2) Except where the reservoir is under the supervision of the construction engineer or an engineer acting under section 64 or 65, an inspection must be conducted under this section—

- (a) within a maximum of 2 years after the date of issue of a final certificate;
- (b) at any time when the supervising engineer so recommends;
- (c) as soon as reasonably practicable after the conduct of any alterations to the reservoir which do not increase its capacity, but are such that may affect its safety and were not designed and supervised by an engineer;
- (d) within a maximum of 10 years after the last inspection or such shorter period as the inspecting engineer who conducted that inspection recommended.

(3) As soon as reasonably practicable after an inspection under this section, the inspecting engineer is to prepare a report and send it to the competent authority.

(4) The report must include—

- (a) recommendations of measures required on grounds of safety; and
- (b) comments and recommendations, if required, relating to issues raised in any previous inspection report.

(5) The inspecting engineer must provide a certificate stating whether the report includes recommendations of measures required on grounds of safety, or not, and where it does, the inspecting engineer must specify the date before which the next inspection is to take place.

(6) Where the report includes recommendations of measures required on grounds of safety, and, subject to section 73 (referral of recommendations to arbitration), the competent authority must—

- (a) comply with the recommendations as soon as reasonably practicable; and
- (b) ensure that the work required is carried out under the supervision of an engineer who is to issue a certification of compliance when satisfied the works have been satisfactorily completed.

(7) The Chief Officer may send a written notice (which may be served by post) to the competent authority if it appears to the Chief Officer that—

- (a) there has not been an inspection and report regarding the large raised reservoir as required by this section; or
- (b) the competent authority has not complied with a recommendation by an inspecting engineer relating to measures to be taken on grounds of safety.

- (8) The written notice may require the competent authority—
- (a) to appoint an independent engineer within 28 days to carry out an inspection as soon as reasonably practicable, unless a person has already been appointed;
 - (b) to notify the Chief Officer of the person appointed under paragraph (a), or already appointed, as the case may be; and
 - (c) to obtain a further report or comply with recommendations to take measures on grounds of safety, as the case may be, within a period specified in the notice.

(9) Where the Chief Officer intends to serve a notice under subsection (7) which requires the competent authority to comply with a recommendation, the Chief Officer must consult an engineer as to the time period for compliance to be specified in the notice.

(10) A competent authority who contravenes subsection (1) or (6) or who fails to comply with a notice sent by the Chief Officer under subsection (7) commits an offence.

(11) The functions of the Chief Officer specified in this section are general delegated functions.

Records to be kept by a competent authority

67.—(1) A competent authority must keep the following records about large raised reservoirs under its control—

- (a) water levels and depth of water, including the flow of water over the waste weir or overflow;
- (b) leaks, settlement or other works and repairs; and
- (c) any other relevant information determined by the Chief Officer or an engineer acting under this Part.

(2) The competent authority must install and maintain such instruments as may be necessary to obtain the information required for the records to be kept under subsection (1).

(3) The records are to be disclosed to any person who requires them for the exercise of a power or performance of a duty under this Part.

(4) A competent authority who contravenes this section commits an offence.

(5) The function of the Chief Officer specified in this section is a general delegated function.

Supervision of large raised reservoirs

68.—(1) Except where a reservoir is under the supervision of a construction engineer, the competent authority must appoint an engineer, (a “supervising engineer”) to supervise the use and management of the reservoir to ensure compliance with this Part and, in particular, that the reservoir may be used safely.

(2) Where any matters have been noted in a final certificate or the latest certificate of the inspecting engineer as matters that must be monitored by the supervising engineer, the supervising engineer must report in writing to the competent authority about the monitoring and action taken.

(3) If the supervising engineer considers that an inspection is required the engineer must recommend that the competent authority arranges an inspection in accordance with section 66.

(4) The Chief Officer may send a written notice (which may be served by post) to the competent authority, if it appears to the Chief Officer that that a large raised reservoir is not under the supervision of a construction engineer or a supervising engineer.

(5) The written notice may require the competent authority to—

- (a) appoint a supervising engineer within 28 days, unless one has already been appointed; and
- (b) notify the Chief Officer of the person appointed.

(6) For the purposes of this section, a construction engineer includes any engineer acting under sections 64 and 65.

(7) A competent authority who contravenes subsection (1) or who fails to comply with a notice issued by the Chief Officer under subsection (4) commits an offence.

(8) The functions of the Chief Officer specified in this section are general delegated functions.

Alteration of large raised reservoirs

69.—(1) A person may not alter a large raised reservoir in such manner that it has a capacity of less than 25,000 cubic metres without appointing an engineer to design the alteration and supervise the works.

(2) As soon as the engineer appointed for the purposes of subsection (1) is satisfied that the alteration is complete and the works are satisfactory, the engineer must issue a certificate of completion

(3) The competent authority must send the certificate to the Chief Officer who, on receipt of the certificate, is to remove the reservoir from the record of large raised reservoirs.

(4) A large raised reservoir continues to be such a reservoir until a certificate is issued under subsection (2).

(5) A competent authority who contravenes subsection (1) or (3) commits an offence.

(6) The functions of the Chief Officer specified in this section are general delegated functions.

Abandonment of large raised reservoirs

70.—(1) Where the use of a large raised reservoir as a reservoir is to be abandoned, the competent authority must obtain a report from an engineer in relation to any measures that must be taken on grounds of safety, so as to ensure that there is no risk of the reservoir being filled with water by mistake or as a result of natural causes, above the natural level of any part of the surrounding land.

(2) Subject to subsection (3) and section 73 (referral of recommendations to arbitration), if the engineer makes recommendations about measures required on grounds of safety, the competent authority must comply with any such recommendations before the use of the reservoir is abandoned or as soon as reasonably practicable thereafter.

(3) If the engineer makes recommendations which require the alteration of the reservoir to reduce its capacity to less than 25,000 cubic metres, section 69 applies to the alteration.

(4) At the same time as preparing a report under this section, the engineer must certify whether or not the report makes recommendations of measures to be taken on grounds of safety.

(5) The Chief Officer may send a written notice (which may be served by post) to the competent authority, or former competent authority, if it appears to the Chief Officer that—

(a) use of a large raised reservoir as a reservoir has been abandoned, but a report as required by this section has not been obtained; or

(b) a recommendation has been made in a report obtained under this section in relation to the measures that must be taken on grounds of safety, and the competent authority or former competent authority has not complied with the recommendation.

(6) The written notice may require the competent authority or former competent authority to—

(a) appoint an engineer within 28 days to prepare a report under this section, unless a person has already been appointed;

(b) notify the Chief Officer of the person appointed under paragraph (a), or already appointed, as the case may be; and

(c) obtain a report or comply with recommendations to take measures on grounds of safety, as the case may be, within a period specified in the notice.

(7) Where the Chief Officer intends to send a notice under subsection (5), requiring a competent authority to comply with a recommendation, the Chief Officer must consult an engineer as to the time period for compliance to be specified in the notice.

(8) A competent authority who contravenes subsection (1) or (2) or who fails to comply with a notice sent by the Chief Officer under subsection (5) commits an offence.

(9) The functions of the Chief Officer specified in this section are general delegated functions.

Supplementary powers of Chief Officer

71.—(1) If the Chief Officer sends a written notice under section 64(1), 65(5), 66(7), 68(4) or 70(5) requiring a competent authority to appoint an engineer, but that authority fails to appoint a person, the Chief Officer may appoint an engineer.

(2) An engineer appointed by the Chief Officer has all the powers and duties of an engineer appointed by the competent authority.

(3) An appointment made under subsection (1)—

(a) has no effect if, prior to the appointment, the competent authority has appointed an engineer in accordance with this Part;

(b) of a supervising engineer (required by section 68) terminates on the date the competent authority appoints a supervising engineer.

(4) If the Chief Officer issues a written notice under section, 65(5), 66(7), or 70(5) requiring a competent authority to implement a recommendation, but the competent authority fails to comply, the Chief Officer may appoint an engineer to make arrangements for and supervise the work required and certify it has been satisfactorily completed.

(5) If, following such enquiries as are reasonably practicable, the Chief Officer is unable to ascertain the name or address of the competent authority, any notice required by this Part is validly issued if it is—

(a) served by post on a person who appears to live at the address of the competent authority;

(b) served by post on a person who appears to be employed at the reservoir; or

(c) affixed in a conspicuous place on building or land at or near the reservoir.

(6) The competent authority must pay the Chief Officer the reasonable expenses incurred in—

(a) an appointment of an engineer under subsection (1);

(b) arrangements for work required on grounds of safety under subsection (4).

(7) The functions of the Chief Officer specified in this section are general delegated functions.

Extraordinary powers of Chief Officer

72.—(1) In the circumstances specified in subsection (2), the Chief Officer may take any measure necessary to protect any person or property from the risk of water escaping from a large raised reservoir.

(2) The circumstances are where the Chief Officer has reasonable cause to believe that—

(a) a large raised reservoir—

(i) is in a dangerous condition; or

(ii) is no longer being used; and

(b) that measures must be taken immediately to protect a person or property against the risk of water escaping from the reservoir.

(3) In the exercise of the power in subsection (1), the Chief Officer must—

(a) appoint an engineer to advise on the necessary measures and the work required must be supervised by the engineer; and

(b) send a written notice (which may be served by post) to the competent authority or former competent authority stating the measures to be taken or which have been taken.

(4) Subject to subsection (5), if it is not reasonably practicable to send the notice referred to in subsection (3)(b) before the commencement of the works, it must be sent as soon as reasonably practicable after commencement.

(5) The Chief Officer is not required to send a notice after the commencement of the works, if it is not possible to ascertain the name and address of the competent authority following such enquires as are reasonably practicable.

(6) Section 71(5) has effect in relation to a notice sent before the commencement of the works, and section 71(6) has effect in relation to the payment of expenses for works done under this section.

(7) The functions of the Chief Officer specified in this section are general delegated functions.

Referral of recommendations to arbitration

73.—(1) A competent authority may refer a matter to arbitration in accordance with this section, if the competent authority disagrees with recommendations regarding—

- (a) measures required on grounds of safety made in the report of the inspecting engineer or a report under section 64(4), 65(3) or 70(1); or
- (b) the date for the next inspection of a large elevated reservoir specified by the inspecting engineer under section 66(5).

(2) The arbitrator must be an independent engineer appointed by joint agreement of the competent authority and the engineer who made the recommendation which is the subject of the dispute.

(3) The Administrator is to appoint an arbitrator if the parties cannot reach agreement on an appointment.

(4) After examining the dispute, the arbitrator may make any amendments considered necessary to the report containing the recommendation which is in dispute, and for the purpose of this Part the report is the report as amended.

(5) When the arbitrator makes a decision relating to the dispute, the arbitrator must provide a certificate stating whether the decision amends the report or not.

(6) The Administrator may make regulations prescribing—

- (a) the period of time within which the appointment of the arbitrator must be agreed;
- (b) the manner and the period of time within which an application may be submitted to the Administrator for the appointment of an arbitrator;
- (c) the procedure before the arbitrator; and
- (d) any other issues in relation to the conduct of an arbitration under this section.

(7) The function of the Administrator specified in subsection (3) is a general delegated function.

Reports, certificates and decisions to be sent to Chief Officer

74.—(1) The Chief Officer may determine the form of reports and certificates issued by an engineer appointed for any purpose under this Part.

(2) The competent authority must send a copy of each report and certificate issued under this Part to the Chief Officer as soon as reasonably practicable.

(3) An engineer appointed under this Part must send the reports or decisions specified in subsection (4) to the Chief Officer within 28 days of sending them to the competent authority.

(4) The reports and decisions referred to in subsection (3) are—

- (a) a decision of an engineer appointed as an arbitrator made under section 73(4) (amendment to an earlier report);
- (b) a report under section 63(6) (reasons for delay in issue of a final certificate) made by either the construction engineer or the engineer appointed under section 64;
- (c) a report of a supervising engineer which—
 - (i) recommends that a reservoir is inspected under section 66;

- (ii) reports a breach of 62(2) or 65(2) (reservoir to be filled with water in accordance with certificate);
 - (iii) reports a breach of section 67 (records to be kept).
- (5) The functions of the Chief Officer specified in this section are general delegated functions.

Duty to provide information

75.—(1) A competent authority must give the Chief Officer at least 28 days notice of the matters specified in subsection (2).

- (2) The matters are—
- (a) the commencement of works to—
 - (i) construct a large raised reservoir;
 - (ii) alter an existing reservoir to increase its capacity so it becomes a large raised reservoir;
 - (iii) alter an existing large raised reservoir so as to increase its capacity;
 - (iv) restore the use of a large raised reservoir after it has been abandoned;
 - (b) the abandonment of a large raised reservoir;
 - (c) the appointment, or termination of the appointment, of a supervising engineer.

(3) For the purpose of subsection (2)(c), the period of 28 days referred to in subsection (1) commences on the date of appointment or termination, as the case may be.

(4) A competent authority must take all measures which are reasonably practicable to facilitate the functions of an engineer appointed for the purposes of this Part whether appointed by the competent authority or the Chief Officer.

- (5) The competent authority must send to the Chief Officer—
- (a) records kept in accordance with section 67, at such intervals as the Chief Officer may direct;
 - (b) a copy of all certificates relating to the reservoir as soon as reasonably practicable after the certificate is issued;
 - (c) a copy of the report of an inspecting engineer as soon as reasonably practicable after the inspection; and
 - (d) any other information or document the Chief Officer may request.
- (6) A competent authority commits an offence if the competent authority—
- (a) contravenes subsection (4) or (5); or
 - (b) pursuant to subsection (4) or (5) provides information or a document which the person has reasonable cause to believe is false or misleading.

(7) The functions of the Chief Officer specified in this section are general delegated functions.

Penalties

76.—(1) A person who commits an offence specified in sections 62, 64 to 70 and 78 is liable, on conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding €5,100 or to both.

(2) A person who commits an offence specified in section 75(6)(a) is liable, on conviction, to a fine not exceeding €1,700.

(3) A person who commits offence specified in section 75(6)(b) is liable on conviction to a fine not exceeding €3,400.

Existing reservoirs: notification

77.—(1) Where a large raised reservoir is in use or under construction at the date of commencement of this Ordinance, the competent authority must provide the following information to the Chief Officer within 3 months of the day this Ordinance comes into force—

- (a) the location of the reservoir; and
 - (b) the name and address of the competent authority.
- (2) The function of the Chief Officer specified in this section is a general delegated function.

Reservoirs under construction or undergoing conversion

78.—(1) This section applies where a large raised reservoir is under construction or under alteration so as to increase its capacity on the day this Ordinance comes into force.

(2) Sections 62(2) and 65 apply as if the construction or conversion had commenced on or after the day this Ordinance comes into force.

(3) The competent authority must appoint an engineer to carry out the functions specified in section 64 within 6 months of the day this Ordinance comes into force.

(4) If the competent authority does not appoint an engineer under subsection (3), section 71 applies as if the Chief Officer had served a written notice on the competent authority under section 64(1), requiring it to proceed with an appointment within 6 months.

(5) A competent authority who contravenes subsection (3) commits an offence.

(6) The functions of the Chief Officer specified in this section are general delegated functions.

Reservoirs in use on the day this Ordinance comes into force

79.—(1) Where a large raised reservoir was constructed before the day this Ordinance comes into force, the reservoir must be inspected by an inspecting engineer as soon as reasonably practicable.

(2) At the first inspection of the reservoir, the inspecting engineer must annex to the report drawings and descriptions of the type specified in subsection (3).

(3) The drawings and descriptions must provide, as far as is reasonably practicable, information about the works at the reservoir that were actually constructed (and not removed in any subsequent alteration) at any time prior to the commencement of this Ordinance, which are described in section 63(9), and would be annexed to a certificate issued under section 63(8).

(4) In all other respects the inspection is to be in accordance with section 66.

(5) This section does not apply where on the day this Ordinance comes into force a large raised reservoir is undergoing conversion so as to increase its capacity.

PART 8

WATER AND CONSERVATION

Waterworks permit for construction of borehole, etc.

80.—(1) A person must not carry out works specified in subsection (2) unless the person holds a waterworks permit.

(2) The works are—

- (a) digging or constructing a borehole or constructing other waterworks for the purpose of abstracting water;
- (b) widening, deepening, enlarging or modifying in any other manner an existing borehole or other waterworks for the purpose of abstracting water; or
- (c) causing or allowing another person to do any works referred to in paragraph (a) or (b).

(3) Subsection (1) does not apply to—

- (a) works to abstract sea water, unless it is for the purpose of desalination;
- (b) drilling for the purpose of research by the Geological Survey Department of the Republic, providing the Area Officer has given prior consent.

(4) The Administrator, by order made as a public instrument, may exempt categories of water works from the requirement to have a waterworks permit, providing the waterworks are to be used for a purpose related to the abstraction of water for which a water abstraction rights permit is not required by virtue of section 82(2).

(5) A person who contravenes subsection (1) commits an offence.

(6) For the avoidance of doubt, the works referred to in subsection (2) are projects within the meaning of section 10 of the Nature Ordinance(a).

Impounding permit to impound surface water, etc.

81.—(1) A person must not carry out works specified in subsection (2) unless the person holds an impounding permit.

(2) The works are—

- (a) constructing or modifying waterworks for the purpose of impounding water at any point where surface water flows;
- (b) maintaining, operating or decommissioning waterworks for the purpose of impounding water; or
- (c) causing or allowing another person to do any works referred to in paragraph (a) or (b).

(3) A person must not divert, block or obstruct a flow of water for the purpose of impounding otherwise than in accordance with an impounding permit.

(4) A person who contravenes this section commits an offence.

(5) For the avoidance of doubt, the works referred to in subsection (2) are projects within the meaning of section 10 of the Nature Ordinance.

Water abstraction rights permit

82.—(1) A person must not abstract water from any place unless the person holds a water abstraction rights permit.

(2) Subsection (1) does not apply to abstracting—

- (a) not more than 5 cubic metres of water at a rate which does not exceed 2 cubic metres per hour, provided that water is taken occasionally and is not part of a continuous process or series of processes over which more than 5 cubic metres of water are taken on any one occasion;
- (b) water for fire fighting purposes or for any other similar emergency purposes;
- (c) sea water, unless for desalination purposes;
- (d) water under any water right or from any water source which is under private ownership; or
- (e) water for research purposes by the Geological Survey Department of the Republic, providing the Area Officer has given prior consent.

(3) The Administrator, by order made as a public instrument, may extend the categories where a water abstraction rights permit is not required for abstracting water, either generally or by reference to a specific water source.

(a) Section 10 corrected by corrigendum 35/2007 and amended by the Protection and Management of Nature and Wildlife (Amendment No. 2) Ordinance 2008 (26/2008).

(4) A person who contravenes subsection (1) commits an offence.

(5) For the avoidance of doubt, abstracting water from any place to which subsection (1) applies is a project within the meaning of section 10 of the Nature Ordinance.

Waterworks permit: application

83.—(1) An application for a waterworks permit must be submitted to the Chief Officer in accordance with the form prescribed in the corresponding Republican Law.

(2) A person (an “applicant”) may submit an application for a waterworks permit only if the applicant satisfies the conditions in this section.

(3) The applicant must be the registered owner of the land on which a borehole is to be sunk or other waterworks constructed.

(4) If the application relates to the modification of an existing borehole or other waterworks, the applicant must—

- (a) satisfy the condition specified in subsection (3); and
- (b) hold a certificate of approval issued under section 95 for the borehole or other waterworks.

(5) An application to construct a plant to abstract sea water for desalination purposes may be made only by an applicant who satisfies the requirements determined by the Administrator by order made as a public instrument.

(6)) The Chief Officer may require the applicant to supply—

- (a) building plans; and
- (b) studies relating to the environmental, hydrological and hydro-geological consequences of the construction and operation of the works.

(7) The Administrator, by order made as a public instrument, may extend the categories of persons who may make an application for a waterworks permit.

(8) The functions of the Chief Officer specified in this section are ~~qualified~~ **general(a)** delegated functions.

Impounding permit: application

84.—(1) An application for an impounding permit must be submitted to the Chief Officer in accordance with the form prescribed in the corresponding Republican Law.

(2) A person (an “applicant”) may submit an application for an impounding permit only if the applicant satisfies the conditions in this section.

(3) The applicant must be the registered owner of—

- (a) the land on which the water is to be impounded;
- (b) the land adjacent to the place from which the water is to be taken or diverted for the purpose of impounding, if the water to be impounded is groundwater; and
- (c) all the land adjacent to the water source from which the water is to be taken, if the water to be impounded is to be taken from more than one point on an area of land,

(4) The Chief Officer may require the applicant to supply—

- (a) building plans;
- (b) studies relating to the environmental, hydrological and hydro-geological consequences of the construction and operation of the works; and
- (c) studies or assessments relating a river as required by section 116(6).

(a) Amended by Ordinance 14/2015 – came into force on 30 October 2015

(5) The Administrator, by order made as a public instrument, may extend the categories of persons who may make an application for an impounding permit.

(6) The functions of the Chief Officer specified in this section are ~~qualified general~~(a) delegated functions.

Water abstraction rights permit: application

85.—(1) An application for a water abstraction rights permit must be submitted to the Chief Officer in accordance with the form prescribed in the corresponding Republican Law.

(2) A person (an “applicant”) may submit an application for a water abstraction rights permit only if the applicant satisfies the conditions in this section.

(3) The applicant must hold—

- (a) a waterworks permit in relation to the waterworks from which the water is to be abstracted; and
- (b) a certificate of approval for the waterworks issued under section 95, or notification that a certificate of approval is to be issued.

(4) If the applicant applies for a water abstraction rights permit to abstract surface water where there has not been any construction of waterworks, the applicant must be the registered owner of the land adjacent to the point from which the water is to be abstracted and, if the water is to be abstracted from more than one point on an area of land, the registered owner of all the land adjacent to the points.

(5) The Administrator, by order made as a public instrument, may extend the category of persons who may make an application for a water abstraction rights permit.

(6) The function of the Chief Officer specified subsection (1) is a ~~qualified general~~(b) delegated function.

Grant of permit and right of appeal

86.—(1) The Chief Officer is to notify an applicant of a decision about the grant of a permit within 3 months of receiving a valid application and any other information required under the Ordinance in relation to the application.

(1A) Where the application referred to in subsection (1) is for a waterworks permit, the Chief Officer must notify the relevant local authorities.

(1B) The notification referred to in subsection (1A) must invite the relevant local authorities to submit written representations about the application within 30 days of the date of the notification.

(1C) The Chief Officer must not determine an application to which subsection (1A) applies until—

- (a) all of the relevant local authorities have submitted written representations or indicated that they do not intend to do so; or*
 - (b) the 30 day period referred to in subsection (1B) has expired,*
- whichever is sooner. (c)*

(2) The applicant has 30 days from receipt of the decision to appeal to the Administrator.

(3) The Administrator must, as soon as reasonably practicable, —

- (a) give the applicant the opportunity to make oral or written submissions; and
- (b) notify the applicant in writing of the decision taken on appeal.

(a) Amended by Ordinance 14/2015 – came into force on 30 October 2015

(b) Amended by Ordinance 14/2015 – came into force on 30 October 2015

(c) Subsections (1A),(1B) and (1C) inserted by Ordinance 08/2017 – came into force on 10 October 2017

(4) The functions of the Administrator and the Chief Officer specified in this section are qualified delegated functions *except for those referred to in subsection (5)*. (a)

(5) The functions of the Chief Officer in subsections (1A) and (1B) are general delegated functions.

(6) In this section “the relevant local authorities” means—

- (a) the local administrative council for each area in which the applicant intends to carry out the works; and
- (b) the irrigation committee for each area in which the applicant intends to carry out the works, if one exists. (b)

Grant of water abstraction rights permit: impact on water rights

87.—(1) The Chief Officer may not grant a water abstraction rights permit if the Chief Officer considers there would be a direct and adverse impact on—

- (a) any existing water rights, including on a person who already has a water abstraction rights permit to take water from the same water source (unless that person consents); or
- (b) the natural flow of water from a water source.

(2) The Chief Officer does not breach subsection (1) if the water rights or the natural flow of water from a water source suffers a direct and adverse impact due to—

- (a) exceptional conditions of drought or accident; or
- (b) any other incident or action which could not be foreseen when the decision was taken on the application for the water abstraction rights permit.

(3) For the purposes of this section “direct and adverse impact” means an impact beyond the usual impact which is expected to arise as a result of the increase of the users of a particular water source.

(4) The functions of the Chief Officer specified in this section are qualified delegated functions.

Grant of permit: general considerations

88.—(1) Subject to section 87, and any other conditions or requirements of this Ordinance, when considering an application for the grant of a permit, the Chief Officer must take into account the following factors—

- (a) the quantitative and qualitative condition of the particular water source to which the application relates;
- (b) public water policy;
- (c) the public interest; ~~and~~
- (d) the reasonable requirements of the applicant for the permit; *and*
- (e) *any written representations received in accordance with section 86(1A) and (1B) within the 30 day period referred to in section 86(1B)*. (c)

(2) In particular the Chief Officer is to have regard to—

- (a) where the application is for a water abstraction rights permit to abstract water from surface water,—
 - (i) the nature of the particular waters and the environment;
 - (ii) the flow of water required for the protection of public health and the environment;
 - (iii) the protection and conservation of the particular water source;

(a) Text inserted by Ordinance 08/2017 – came into force on 10 October 2017

(b) Subsections (5) and (6) inserted by Ordinance 08/2017 – came into force on 10 October 2017

(c) Amendments to subsection (c), (d) and subsection (c) inserted by Ordinance 08/2017 – came into force on 10 October 2017

- (iv) the existing lawful use of the particular water, both from a qualitative and a quantitative view;
 - (v) requirements for land drainage;
 - (vi) whether the application relates to abstracting water from—
 - (aa) a protected area, in relation to which an order under section 5(1)(d) of the Control of Water Pollution Ordinance 2005(a) has been made; or
 - (bb) a water catchment area or a recipient area;
 - (vii) where subparagraph (vi) applies, any restrictions that would be appropriate in respect of the grant of a permit within the area;
 - (viii) the general water condition in the area from which water is to be abstracted;
 - (ix) the available water sources and the possible impact on the water sources and water supply in the area, or water supply in general; and
 - (x) the general powers and duties of the Chief Officer under this Ordinance;
 - (b) where the application is for a water abstraction rights permit to abstract sea water for desalination purposes,—
 - (i) the factors referred to in paragraph (a), where relevant;
 - (ii) the extent to which the applicant's requirement for water can be met in any other lawful way;
 - (iii) whether, and to what extent, the purpose and the exercise of the powers or duties of the Chief Officer in connection with the supply and conservation of water would be adversely affected by the grant of such permit; and
 - (iv) whether the grant of a permit will have an adverse impact on consumers and the environment;
 - (c) where the application is for a water abstraction rights permit to abstract water from an aquifer,—
 - (i) the factors referred to in paragraph (a), where relevant; and
 - (ii) the need to maintain, improve, preserve and replenish resources of groundwater;
 - (d) any other factors which the Chief Officer considers form an essential and relevant part of the application.
- (3) The functions of Chief Officer specified in this section are qualified delegated functions.

Grant of permit: other factors

89.—(1) The Chief Officer may grant a waterworks permit only if the Chief Officer considers that the conditions for the grant of a water abstraction rights permit will be satisfied on completion of the works.

(2) If an application for a water abstraction rights permit is made within 3 months of the expiry of the validity of a waterworks permit for the relevant waterworks, the only grounds on which the Chief Officer may refuse to grant the permit are those which arose from the construction of the relevant waterworks.

(3) If an application for a water abstraction rights permit is made after the period of 3 months from the expiry of validity of a waterworks permit for the relevant waterworks, the Chief Officer may refuse to grant the permit—

- (a) on the grounds specified in subsection (2); or
- (b) on grounds which arose after the grant of the waterworks permit, but before the commencement of the construction of the relevant waterworks.

(a) Ordinance 1/2005.

(4) The Chief Officer may not grant a water abstraction rights permit unless a certificate of approval has been granted under section 95 for the relevant waterworks.

(5) In this section “the relevant waterworks” means the waterworks for the place to which the water abstraction rights permit relates.

(6) The functions of Chief Officer specified in this section are qualified delegated functions.

Impounding permit: application of sections 87 to 89

90.—(1) Sections 87 and 88(2)(a) to (c) apply to the grant of an impounding permit.

(2) Section 89 applies to the application for or the grant of an impounding permit where the principal purpose of the impounding is to abstract water.

(3) For the purpose of this section, references in sections 87 to 89 to—

- (a) “water abstraction rights permit” are to be read as “impounding permit”;
- (b) “abstract” are to be read as “impound”.

Grant of permit: conditions

91.—(1) A permit is to specify the name of the person to whom it is issued and the Chief Officer may impose such conditions and restrictions on the grant of the permit as the Chief Officer considers necessary.

(2) When imposing conditions, the Chief Officer is to have particular regard to the matters specified in section 92, 93 or 94, as the case may be.

(3) The functions of Chief Officer specified in this section are qualified delegated functions.

Waterworks permit: conditions

92. Conditions imposed on a waterworks permit may include—

- (a) procedures and conditions for the conservation, excavation, construction, carrying out, widening, deepening or any other extension or alteration of a borehole or other waterworks, and the exact position of the waterworks;
- (b) a requirement that, upon completion of the works, the permit-holder submits a report (prepared and signed by a qualified geologist who is member the Cyprus Scientific and Technical Chamber) to the Chief Officer, which includes—
 - (i) a description and construction designs of the waterworks; and
 - (ii) a geological and lithological description of the layers of the soil that have been drilled;
- (c) a requirement to insulate and install filter pipes so as to protect the waterworks or the aquifer;
- (d) a requirement to take specific safety measures during construction, installation of equipment, maintenance or decommissioning of the waterworks; and
- (e) other requirements necessary for compliance with this Ordinance.

Impounding permit: conditions

93.—(1) Conditions imposed on an impounding permit may include—

- (a) conditions relating to construction, modification and installation, including the siting of the impounding waterworks;
- (b) a condition that the permit-holder sends the Chief Officer final construction plans before commissioning the works;
- (c) a requirement to take specific safety measures during the construction, modification, the installation of equipment, maintenance or decommissioning of the waterworks; and

- (d) other requirements necessary for compliance with this Ordinance.
- (2) The function of the Chief Officer specified in this section is a qualified delegated function.

Water abstraction rights permit: conditions

- 94.**—(1) Conditions imposed on a water abstraction rights permit may include—
- (a) conditions relating to the quantity of, and period when, water may be abstracted;
 - (b) conditions relating to systems for abstracting water including specifications for the waterworks from which the water is to be abstracted;
 - (c) conditions relating to the method of measurement or calculation of the permitted quantity of water, before or when it is abstracted;
 - (d) conditions relating to the purposes for which the water may be used and the land on which the water abstracted may be used;
 - (e) conditions relating to equipment that must be installed or available for metering and sampling purposes;
 - (f) a requirement to take specific safety measures during the installation or modification of the equipment, the impounding, and the operation and maintenance of the site and equipment; and
 - (g) other requirements necessary for compliance with this Ordinance.
- (2) Despite section 89, a water abstraction rights permit may include conditions relating to—
- (a) the date it commences;
 - (b) the date it expires;
 - (c) conservation measures which must be taken to decrease the impact on water resources;
 - (d) a requirement to return abstracted water to a specific water source;
 - (e) the quality of abstracted water after use; and
 - (f) a requirement to maintain a specified amount or flow of water from a water source.

Certificate of approval

- 95.**—(1) The holder of a waterworks permit must notify the Chief Officer, in writing, within 21 days of the completion of the waterworks to which the permit applies.
- (2) If the Chief Officer is satisfied that the works have been conducted in accordance with the conditions in the waterworks permit, the Chief Officer must issue a certificate of approval.
- (3) The functions of the Chief Officer specified in this section are general delegated functions.

Waterworks permit: period of validity

- 96.**—(1) A waterworks permit is valid for 12 months starting on the date of issue.
- (2) A waterworks permit may be renewed for a further period of 12 months if—
- (a) the construction of the waterworks to which the permit applies is commenced within the initial 12 month period of validity; and
 - (b) the permit-holder pays the fee prescribed in the corresponding Republican Law.

Transfer of permit and certificate of approval

- 97.**—(1) If the holder of a waterworks permit transfers ownership of the waterworks, the waterworks permit and any certificate of approval issued in relation to that permit is transferred to the new owner.

(2) If the holder of a waterworks permit dies, the waterworks permit and any certificate of approval issued in relation to the waterworks permit is transferred to the holder's personal representatives.

(3) Subsection (4) applies if a permit-holder is not the owner of the waterworks, but holds a permit pursuant to the transitional provisions in section 146 (permit under Mines and Quarries Ordinance 2012(a)) or 147(c) (permit under the Public Waterworks Ordinance)

(4) On termination or revocation of the permit, the owner of the waterworks is deemed to hold a waterworks permit and certificate of approval for the purposes of this Ordinance.

Automatic termination of water abstraction rights permit

98.—(1) Subject to section 99, a water abstraction rights permit is personal.

(2) Subject to subsection (3), a water abstraction rights permit ceases to be valid if the person to whom it was granted—

- (a) dies;
- (b) ceases to be the holder of the relevant permit; or
- (c) ceases to be owner of the land, described in section 85(4).

(3) If questions arise about the ownership of the land referred to in subsection (2)(c), including following the death of a permit-holder, the water abstraction rights permit continues to be valid until the questions are settled.

(4) In this section “relevant permit” means a waterworks permit or an impounding permit for the water source to which the water abstraction rights permit relates.

Water abstraction rights permit: assignment

99.—(1) A water abstraction rights permit may be assigned only where the permit-holder is not—

- (a) the owner of the waterworks (including impounding works) to which the water abstraction rights permit relates; or
- (b) the owner of the land described in section 85(4).

(2) . An assignment under subsection (1) may be made only to the person who is the owner of the waterworks or the land described in section 85(4), as the case may be.

(3) The Administrator may make regulations—

- (a) permitting assignment of a water abstraction rights permit in other circumstances; and
- (b) setting out procedures for the assignment of a permit;

Requirement to comply with Part 7

100. A person constructing or altering impounding waterworks in a river must comply with Part 7, if the impounding waterworks are a large raised reservoir as defined in Part 7.

Additional permits required by other Ordinances

101. The issue of a permit under this Part does not release a person from an obligation under any other Ordinance to obtain a permit for digging or constructing a borehole or doing other works.

Cancellation of or amendment to permit: applications

102.—(1) If a permit-holder applies—

- (a) for a permit to be cancelled—

(a) Ordinance 24/2012.

- (i) the Chief Officer is to cancel it; but
- (ii) subject to any conditions the Chief Officer considers necessary; or
- (b) for the permit to be amended, the Chief Officer may amend it.
- (2) Sections 86 to 94 apply to a decision in relation to the amendment of a permit as they apply to a grant of a permit
- (3) The functions of the Chief Officer specified in this section are qualified delegated functions.

Revocation of or amendment to permit: powers of the Chief Officer

103.—(1) The Chief Officer may revoke or amend a permit issued under this Part, if the Chief Officer considers it necessary or it can be justified on the grounds of protecting the public interest.

(2) Subject to subsection (3), if the Chief Officer intends to revoke or amend a permit the Chief Officer must—

- (a) notify the permit-holder in writing; and
- (b) give the permit-holder 1 month from the receipt of the notification to provide objections in writing.

(3) Where the Chief Officer intends to revoke or amend a specific category of permits, the Chief Officer is to notify the intention to do so by publication in —

- (a) the Gazette; and
- (b) at least 2 newspapers circulating in the Areas on 7 consecutive days.

(4) The notification referred to in subsection (3) must—

- (a) contain sufficient detail for a permit-holder to understand the effect on the permit;
- (b) give permit-holders 1 month, starting on the date of the notice in the Gazette, to provide objections in writing.

(5) After the expiry of the notice period referred to in subsections (2) and (4), and subject to consideration of any objections, the Chief Officer may revoke or amend a permit and, if the notification was made under—

- (a) subsection (2), notify the permit-holder in writing;
- (b) subsection (3), notify permit-holders by way of publication so specified in that subsection.

(6) Without prejudice to the general power to revoke or amend a permit provided by subsection (1), the Chief Officer may revoke or amend a permit or require that waterworks are removed or demolished on the grounds of—

- (a) a serious breach or repeated breaches of conditions in the permit;
- (b) a serious breach or repeated breaches of this Ordinance;
- (c) repeated failure to pay a fee required in relation to the permit;
- (d) not abstracting water under a water abstracting rights permit for a period of 5 years prior to the issue of a notice under this section;
- (e) unlawful interference or damage to a water meter installed by a permit-holder as a condition of the permit.

(7) The functions of the Chief Officer specified in this section, except for publication in the Gazette, are qualified delegated functions.

Revocation of or amendment to permit: compensation

104.—(1) Where a permit is revoked or amended pursuant to section 103, the Chief Officer is to compensate a permit-holder, if the permit-holder proves—

- (a) that expenses were incurred for the conduct of works which could not be used as a result of the revocation or amendment; or

- (b) loss or damage directly related to the revocation or amendment.
- (2) Compensation is not payable for—
 - (a) any works conducted or any loss or damage arising before the grant of the revoked or amended permit;
 - (b) any work conducted after notification under section 103(2) or (3);
 - (c) any loss where no water has been abstracted under the permit for 5 years prior to notification under section 103(2) or (3);
 - (d) revocation or amendment due to drought or other emergency;
 - (e) revocation or amendment—
 - (i) required for the protection and management of water resources or justified on other grounds in the public interest; and
 - (ii) due to change in circumstances which could not reasonably have been foreseen when permit was granted or last amended;
 - (f) revocation or amendment caused by conduct of the permit-holder of the type specified in section 103(6).
- (3) In determining the amount of compensation, the Chief Officer is to take into account of all relevant factors including, in particular,—
 - (a) the period of validity of the permit;
 - (b) the quantity, duration and seasonal availability of water abstracted or impounded under the permit; and
 - (c) whether an alternative source of water has been provided by the Chief Officer.
- (4) The Resident Judge's Court has jurisdiction to hear a dispute about liability to pay compensation under this section and the amount of compensation payable.
- (5) The functions of the Chief Officer specified in this section are general delegated functions.

Register of permits

- 105.**—(1) The Chief Officer must keep a register which is to include—
- (a) a copy of all applications for the grant of, or amendment to, a permit;
 - (b) a copy of all permits granted, including the conditions under which a permit is granted and any amendments to the conditions;
 - (c) particulars of each permit-holder;
 - (d) an index so that it is possible to locate an entry; and
 - (e) any other information the Chief Office considers appropriate
- (2) A copy of the register is to be held by the Area Officer and be available for public inspection by any person during normal business hours.
- (3) The Chief Officer must keep a register of boreholes in accordance with the corresponding Republican Law.
- (4) A person who holds a permit for a borehole registered in accordance with subsection (3) may apply to the Chief Officer for a certified copy of the entry.
- (5) The functions of the Chief Officer and Area Officer specified in this section are general delegated functions.

Driller's licence

- 106.**—(1) A person must hold a driller's licence in order to use a drilling machine to—
- (a) sink or construct a borehole; or
 - (b) extend, deepen, enlarge, repair or clean an existing borehole.

(2) Subsection (1) does not apply to officers of the Geological Survey Department of the Republic providing the Area Officer has given prior consent.

(3) A driller's licence is subject to such conditions and requirements as the Chief Officer considers necessary, and, unless it is revoked, expires on 1 March of the year following the year it is issued.

(4) The fee for each issue or renewal of a driller's licence is the amount prescribed in the corresponding Republican Law.

(5) An application for a driller's licence must be submitted to the Chief Officer in accordance with the form prescribed in the corresponding Republican Law and must include the following —

- (a) a certificate that the applicant has no criminal convictions in relation to professional conduct; and
- (b) a copy of the road tax licence for the drilling machine, or if the drilling machine is transportable, evidence that the vehicle used to transport the machine has a road tax licence.

(6) If the application does not contain all the necessary information, the Chief Officer must inform the applicant within a period of 7 days, starting with the date the application is received, and specify the information required.

(7) The Chief Officer must notify the applicant of the decision on the application within a period of 3 months, starting with the date of the submission of all the required information.

(8) If the Chief Officer does not notify the applicant of the decision within the period specified in subsection (7), the application is deemed to be granted from the day following the expiry of that period.

(9) The Chief Officer may refuse to grant a driller's licence, if the Chief Officer considers that the applicant—

- (a) is not technically able to carry out the drilling procedure required; or
- (b) does not have adequate knowledge of the driller's statutory obligations or matters relating to the protection of the water and geology.

(10) The applicant is to take an oral examination, as specified in the corresponding Republican Law, and in accordance with the procedures specified in that Law.

(11) An application to renew a driller's licence is to be made in accordance with the corresponding Republican Law and the applicant is not required to take an oral examination.

(12) Subsection (6) has effect in relation to an application to renew a driller's licence.

(13) If the application to renew is granted, the licence is to be issued within 7 days of receipt of all the information required, or payment of the fee specified in subsection (4), whichever is the later.

(14) The Chief Officer may refuse to renew a driller's licence due to serious or repeated breaches of conditions in the licence or contraventions of this Ordinance, and must give reasons for such a decision.

(15) Section 105 has effect in relation to drillers' licences as if the references to "permits" and "permit-holders" were references to "licences" and "licence-holders".

(16) A licence-holder must-

- (a) give the Chief Officer a minimum of 3 days' notice of any drilling works to be done under the licence;
- (b) keep a record of the work done in such manner as the Chief Officer may determine;
- (c) send a copy of the record to the Chief Officer within 1 month of the completion of the work; and
- (d) ensure that the person on whose behalf the work is conducted holds a permit under this Part.

(17) A person who contravenes this section commits an offence.

(18) The functions of the Chief Officer specified in this section are qualified delegated functions, except for the functions specified in subsections (15) and (16), which are general delegated functions,

Fees

107. A person making an application for a permit or licence under this Part must pay the fee prescribed in the corresponding Republican Law.

Safety and protection measures for boreholes etc.

108.—(1) A holder of a waterworks permit must ensure the works do not cause a hazard to the public, and, in particular, must—

- (a) fence or cover the works whilst under construction; and
- (b) erect a permanent fence or cover on completion of the works.

(2) The owner or other person responsible for a waterworks, irrespective of when constructed, must keep the waterworks fenced or covered so as not to cause a hazard to the public.

(3) The Chief Officer, taking account of expert opinion, may issue policy guidance in connection with closing a borehole or using it only as a reserve borehole.

(4) A person who contravenes subsection (1) or (2) commits an offence.

(5) The function of the Chief Officer specified in this section is a general delegated function.

Installation and maintenance of metering

109.—(1) If the conditions in a water abstraction rights permit require a permit-holder to install a water meter, the permit-holder must install it and keep it in working order.

(2) A person who contravenes subsection (1) commits an offence

(3) Irrespective of whether criminal proceedings are taken, the Chief Officer may—

- (a) require a permit-holder to repair or replace a water meter; or
- (b) repair or replace a water meter and recover the costs from the permit-holder.

(4) The function of the Chief Officer specified in this section is a general delegated function.

Obligation to remove waterworks

110.—(1) Where subsection (2) applies, the Chief Officer may require a person to fill in or close a borehole, or otherwise remove waterworks.

(2) This subsection applies where—

- (a) the Chief Officer refuses to grant a water abstraction rights permit in relation to a particular waterworks;
- (b) a person has not submitted an application for a water abstraction rights permit within 2 years of—
 - (i) the expiry of the waterworks permit; or
 - (ii) becoming the owner of the waterworks;
- (c) all the water abstraction rights permits in relation to the waterworks have been revoked; or
- (d) if, at any time after the expiry of the waterworks permit but before the permit-holder has submitted an application for a water abstraction rights permit, the Chief Officer determines that the waterworks adversely affect public health or water resources.

(3) Works required by this section must be carried out in accordance with any recommendations made by the Chief Officer and paid for by the holder of the waterworks permit or, where subsection (2)(b)(ii) applies, the owner of the waterworks.

- (4) A person who contravenes subsection (1) commits an offence.
- (5) The functions of the Chief Officer specified in this section are general delegated functions.

Prohibition on use of unlawfully constructed boreholes, etc.

111.—(1) A person must not—

- (a) use waterworks which were sunk or constructed in breach of the Wells Ordinance^(a), the Water Supply (Special Measures) Ordinance 1964^(b) or this Part, as the case may be;
- (b) cause or allow the escape or wastage of water from waterworks unless this is done for the purpose of testing the performance or quality of the water, or for the purposes of cleaning, examination or repair of the waterworks;
- (c) abstract more water than permitted by the water abstraction rights permit;
- (d) use unauthorised waterworks to abstract water; or
- (e) cause or allow another person to do the things specified in this subsection.

(2) A person who contravenes this section commits an offence.

Offences and penalties

112.—(1) A person who contravenes any condition specified in a permit commits an offence.

(2) Except for the offences specified in subsections (6) and (7), a person who commits an offence specified in this Part is liable, on conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding €12,000, or to both.

(3) If a person is convicted of abstracting water without a water abstraction rights permit, or in contravention of the conditions in such a permit, in addition to the penalties specified in subsection (2), the court may order that the person pays to the Chief Officer a sum corresponding to the value of the water taken unlawfully.

(4) If a person is convicted of an offence under this Part, in addition to the penalties specified in subsection (2) and (3), the court may order—

- (a) that the convicted person fills in, covers or removes the waterworks related to the offence within such period as determined by the court, and at the expense of the convicted person;
- (b) the confiscation of equipment used in the commission of the offence;
- (c) that the convicted person repairs or replaces equipment at the site of, or related to, the offence.

(5) If a person fails to comply with an order made under subsection (4), the Chief Officer may authorise works specified in that order to be done and the expense is deemed to be a penalty under the ~~Criminal Procedure Ordinance~~^(c) *Criminal Procedure Ordinance 2016*^(d) ^(e) and is recovered from the convicted person in accordance with that Ordinance.

(6) A person who contravenes an order made under subsection (4) commits an offence and is liable, on conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding €8,500, or to both.

(a) Cap 351, Statute Laws of Cyprus revised edition 1959, as applied in the Areas by the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (SI 1960/1369, United Kingdom). Schedule 2 to the Interpretation Ordinance 2012 (Ordinance 8/12) provides for the interpretation of such legislation.

(b) Ordinance 14/1964.

(c) Cap 155, Statute Laws of Cyprus revised edition 1959, as applied in the Areas by the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (SI 1960/1369, United Kingdom). Schedule 2 to the Interpretation Ordinance 2012 (Ordinance 8/2012) provides for the interpretation of such legislation.

(d) Ordinance 9/2016

(e) Text deleted and new text inserted by Ordinance 9/2016 – came into force on 01 May 2016

(7) A person who obstructs a person authorised under subsection (5) commits an offence and is liable on conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding €1,700, or to both.

(8) The functions of the Chief Officer specified in this section are general delegated functions.

Presumption of criminal liability for certain offences

113.—(1) Subject to subsections (2) and (3), if a criminal offence specified under section 80, 81, 82 or 111(1)(a) is committed, it is presumed that the owner of the land (“O”) on which the waterworks are situated committed or commissioned the offence, unless O proves, on the balance of probabilities, that O did not commit or commission the offence.

(2) If a water abstraction rights permit has been assigned under section 99(1), it is presumed that the assignee (“A”) committed or commissioned the offence, unless A proves, on the balance of probabilities, that A did not commit or commission the offence.

(3) Except where subsection (4) applies, the term “owner of the land” in subsection (1) means the registered owner.

(4) This subsection applies where the land on which the offence is committed is—

- (a) managed by an agent; or
- (b) leased to another person.

(5) Where—

- (a) subsection (4)(a) applies “owner of the land “ means the agent;
- (b) subsection (4)(b) applies “owner of the land” means the person to whom the land is leased.

Repair and cleaning of boreholes

114.—(1) Subject to the following provisions, this Part does not apply to the repair or cleaning of a borehole or other waterworks lawfully sunk or constructed, whether before or after the coming into force of this Ordinance.

(2) A person must notify the Chief Officer at least 7 days before cleaning or repairing a borehole, and must specify in the notice the date on which the work is to commence.

(3) A person who contravenes subsection (2) commits an offence.

(4) The function of the Chief Officer specified in this section is a general delegated function.

PART 9

MANAGEMENT OF RIVERS

General control of land drainage through rivers

115.—(1) The Chief Officer is to control and supervise land drainage through rivers and has the power to—

- (a) clean, maintain, repair or otherwise keep any existing waterworks on rivers in good and functioning order;
- (b) deepen, widen, align or otherwise improve any existing waterworks on rivers;
- (c) construct, modify or alter dams or other natural or technical obstacles on rivers;
- (d) deepen, widen, align or otherwise improve the bed, the banks or the flow of rivers; and
- (e) construct new waterworks on rivers or place or install any machinery or engage in any other action required for the construction of waterworks on rivers.

(2) In the exercise of functions under subsection (1) the Chief Officer must have regard to section 10 of the Nature Ordinance.

(3) The functions of the Chief Officer specified in this section are qualified delegated functions.

Licence for works and appeal to Administrator

116.—(1) A person must not—

- (a) damage or destroy a bank or bed of a river;
- (b) store any objects or park vehicles on a river bank;
- (c) take any action which—
 - (i) affects or may affect the flow of water in a river;
 - (ii) may cause pollution (as defined in section 2 of the Control of Water Pollution Ordinance 2005(a)) in a river; or
 - (iii) may cause damage to the river or damage to any person or property.

(2) A person must—

- (a) apply to the Chief Officer, in writing, for a licence to do any of the works specified in subsection (3); and
- (b) conduct the works in accordance with conditions imposed on a licence, if granted.

(3) The specified works are—

- (a) the removal or carrying away of stones, shingle, gravel, sand, soil or other substance from the bed or bank of a river or of any part of a river;
- (b) the dumping of any rubble, rubbish, sweepings or other refuse in the bed of any river or in the bed of any part of a river or on or upon the bank of a river or of any part of a river;
- (c) the placing or installing of any vehicle, machinery or any other object in the bed of a river or on the bank of a river which could be used to take stones, shingle, gravel, sand or other substance from the river;
- (d) the construction, alteration or repair of any construction inside, above or over a river, unless this is carried out in accordance with a waterworks permit issued under Part 8.

(4) The Chief Officer must have regard to section 10 of the Nature Ordinance in deciding whether to grant a licence under this section, and may grant a licence under such conditions as are considered appropriate, which may include a requirement that the licence-holder submits plans for approval and carries out repair works.

(5) The Chief Officer may refuse to grant a licence on grounds that the planned works may—

- (a) cause damage to the river, to the environment or to the immovable property neighbouring or adjacent to the river;
- (b) affect the flow of water in the river; or
- (c) have an adverse impact on water resources or matters connected with water resources in general.

(6) In considering an application, the Chief Officer may ask the applicant to submit any of the following—

- (a) a hydrological assessment;
- (b) a flood risk assessment;
- (c) a report relating to the layout and orientation of the river bed;
- (d) an economic and environmental impact assessment;
- (e) a hydrological or water-geological study of quantitative or qualitative impact on the water resources of the area.

(a) Ordinance 1/2005.

(7) The Chief Officer must notify the applicant of the decision on the application within 3 months of receipt of all the relevant information.

(8) The applicant or an interested party may appeal to the Administrator within 30 days of the Chief Officer's decision.

(9) The Administrator is to determine the appeal as soon as reasonably practicable and—

- (a) must give the appellant the opportunity to make oral or written representations;
- (b) may take advice in relation to technical or other issues which arise in considering the appeal.

(10) If a person carries out any works which contravene this section and the Chief Officer considers that the works are a danger to any person, property or the environment, the Chief Officer may—

- (a) modify, demolish or remove the works; and
- (b) recover the costs from the person who carried out the works.

(11) A person does not contravene this section if the reason for the contravention is a necessary and proportionate response to an emergency, providing the person informs the Chief Officer as soon as reasonably practicable.

(12) The Chief Officer may require a person acting in the case of emergency to reinstate the area when the emergency has ended, or to apply for a licence under subsection (2).

(13) A person who contravenes this section commits an offence and is liable on conviction to imprisonment for a term not exceeding 12 months, or a fine of €8,500, or to both.

(14) The functions of the Administrator and the Chief Officer specified in this section are qualified delegated functions.

Penalties: further provisions

117.—(1) If a person is convicted of the offence specified section 116(13), in addition to the penalties specified in section 116(13), the court may order—

- (a) that the convicted person removes or demolishes any works related to the offence within such period as determined by the court and at the expense of that person;
- (b) that the convicted person collects any rubble, rubbish, sweepings or other refuse that was placed or dumped, at the expense of the convicted person;
- (c) the confiscation of any equipment used in the commission of the offence; and
- (d) the convicted person to pay compensation for any damage caused as a result of the offence.

(2) If a person fails to comply with an order made under subsection (1), the Chief Officer may authorise the works specified in the order to be done and the expense recovered from the convicted person in accordance with the ~~Criminal Procedure Ordinance~~ *Criminal Procedure Ordinance 2016*.**(a)**

(3) A person who contravenes an order made under subsection (1) commits an offence and is liable on conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding €8,500, or to both.

(4) A person who obstructs a person authorised under subsection (2) commits an offence and is liable on conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding €1,700, or to both.

(5) The function of the Chief Officer specified in this section is a general delegated function.

(a) Text deleted and new text inserted by Ordinance 9/2016 – came into force on 01 May 2016

PART 10

MISCELLANEOUS PROVISIONS

Land acquisition

118.—(1) If the Administrator decides that the acquisition of land is necessary for the purposes of this Ordinance, the acquisition is to be in accordance with the Land Acquisition Ordinance(a).

(2) In this section “land” has the meaning given in section 2(b) of the Land Acquisition Ordinance.

Repeal of water rights by way of a private agreement

119.—(1) Where the Administrator decides that the acquisition of water rights is necessary for any purpose connected with this Ordinance, the Administrator may conclude a private agreement with the owner of the water rights, instead of proceeding with their compulsory acquisition under the Land Acquisition Ordinance.

(2) A private agreement may terminate or restrict the water rights under such conditions that the Administrator considers reasonable.

(3) The functions of the Administrator specified in this section are general delegated functions.

Chief Officer: power to authorise other persons

120.—(1) The Chief Officer may authorise another person to exercise powers and duties under this Ordinance, including the power to grant a permit or a licence.

(2) A person authorised under subsection (1) may be a person in the employment of or service of the Crown, an officer of the Republic or a private contractor.

(3) A person authorised under subsection (1) must be given a certificate of authorisation which must be presented, on request, if the person is exercising a power to enter immovable property.

(4) Authorisation under this section must—

(a) be in writing; and

(b) specify the powers and duties covered by the authorisation.

(5) The functions of the Chief Officer specified in this section are general delegated functions.

Authorised persons: enforcement powers

121.—(1) An authorised person may enter immovable property, including the closed yard of a private dwelling-house,—

(a) at any reasonable time, if the authorised person has reasonable cause to believe that there has been, on the property, a contravention of this Ordinance or contravention of a condition in a permit or licence issued under this Ordinance; or

(b) at any time, if the authorised person has reasonable cause to believe that an activity on the property poses a danger to a person.

(2) In exercise of functions under this Ordinance, an authorised person may do any of the following at property entered under subsection (1)—

(a) Cap 226, Statute Laws of Cyprus revised edition 1959, as applied in the Areas by the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (SI 1960/1369, United Kingdom). Schedule 2 to the Interpretation Ordinance 2012 (Ordinance 8/2012) provides for the interpretation of such legislation.

(b) The definition of land includes water and water rights held independently of the land.

- (a) carry out any inspections, tests, sample taking, measurements or searches that the authorised person considers necessary or which may assist the authorised person in the exercise of their functions;
 - (b) inspect, examine and control the operation of any waterworks and conduct such measurements and take photographs or any other impressions that the authorised person considers necessary or which may assist the authorised person in the exercise of functions;
 - (c) instruct that waterworks remain at any place for as long as is necessary to carry out the functions specified in paragraphs (a) and (b), providing that compliance with these instructions does not impede economic activity;
 - (d) request documents from any person at the property, which the authorised person has a reasonable cause to believe contain information in relation to purpose of an investigation;
 - (e) request information relevant to an investigation from the following persons—
 - (i) the owner or occupier of the property;
 - (ii) the holder of a permit or licence issued or deemed to be issued under this Ordinance;
 - (iii) any other person who the authorised person has reasonable cause to believe may have information relevant to the investigation;
 - (f) retain and remove any document or other item that may be required for the purposes of the investigation or as evidence in criminal proceedings;
 - (g) request safe access to any part of the property and reasonable facilities for tests, measurements, inspections, examinations or sample taking be provided by—
 - (i) the owner or occupier of the property, or any member of that person's family who is above 16 years old;
 - (ii) the holder of a permit or licence issued or deemed to be issued under this Ordinance;
 - (iii) a person at the property whom the authorised person has reasonable cause to believe may have contravened this Ordinance; or
 - (iv) an employee of any of the persons referred to in subparagraphs (i) to (iii) who is at the property.
- (3) An authorised person may be accompanied by another person or persons qualified to assist in the conduct of the investigation.
- (4) An authorised person may enter a private dwelling-house only—
- (a) with the consent of the occupier; or
 - (b) under a court order.

Authorised persons: offences for obstruction

122.—(1) A person commits an offence if the person—

- (a) obstructs an authorised person, or a person accompanying an authorised person, in the exercise of the powers specified in section 121;
- (b) without reasonable cause, does not supply information requested under section 121(2)(e) or gives untrue or misleading information;
- (c) without reasonable cause, does not provide safe access or facilities requested under section 121(2)(g).

(2) A person convicted of an offence specified in subsection (1) is liable, on conviction, to imprisonment for a term not exceeding 12 months, or a fine not exceeding €5,100, or to both.

Authorised persons: power to conduct research

123.—(1) For the purpose of conducting research and feasibility studies in relation to the development of water resources, an authorised person, may—

- (a) subject to subsections (2) and (3), enter any property in order to—
 - (i) carry out tests, measurements, sample taking or inspections;
 - (ii) examine the flow of water;
 - (iii) measure the quantity and the quality of any waters in a particular area or areas; and
 - (iv) carry out geotechnical and soil mechanics studies;
 - (v) temporarily erect or install on that property any structure, machinery, instrument or equipment for the purposes of this paragraph;
 - (b) temporarily regulate, stop or divert the flow of water;
 - (c) require that access is provided to another person or materials used necessary for the purposes of this subsection;
 - (d) dig or drill into the subsoil;
 - (e) clean a particular area and place any signs or markings on it; and
 - (f) do anything incidental or necessary for the purposes of this subsection.
- (2) An authorised person may enter a private dwelling-house only—
- (a) with the consent of the owner or occupier; or
 - (b) under a court order.
- (3) An authorised person must give the owner or occupier at least—
- (a) 8 days’ written notice (which may be served by post) of an intention to enter any building which is not a dwelling-house;
 - (b) 1 day’s written notice (which may be served by post) of an intention to enter any other immovable property, including a closed yard of a private dwelling-house.
- (4) If it is not reasonably practicable to comply with subsection (3), an authorised person may affix a notice in a conspicuous place on the property, and at the office of the local administrative council within whose boundaries the property is situated.

Authorised persons: power to maintain waterworks etc.

124.—(1) For the purpose of any function relating to the building, maintenance, improvement, repair or removal of waterworks, an authorised person may—

- (a) enter property and carry out the works on that property or in relation to another property;
- (b) cut trees or vegetation, move fences or structures and any other things necessary for the purposes of paragraph (a); and
- (c) do any of the things specified in section 123(1).

(2) Section 123(2) to (4) has effect in relation to the exercise of powers of entry by an authorised person under this section.

(3) An authorised person must give 7 days’ written notice of an intention to cut trees or vegetation or move fences or other structures.

(4) But if an authorised person is satisfied that the functions specified in subsection (1) must be exercised immediately to protect human life or property, no written notice is required.

(5) Despite subsection (4), an authorised person may enter a private dwelling-house, without either a court order or the consent of the owner or occupier, only for the purpose of saving human life.

Compensation for damage

125.—(1) A person (a “claimant”) who incurs loss or damage as a result of the exercise of powers under sections 123 or 124 may claim compensation from the Chief Officer, and the amount is to be determined by the Chief Officer.

(2) The claimant must send a claim under subsection (1) to the Chief Officer before the end of the period of 2 months, starting with the day the loss or damage occurred.

(3) If the claim is not settled to the satisfaction of the claimant, the claimant may issue proceedings in the Resident Judge's Court.

(4) Proceedings under subsection (3) must be issued before the end of the period of 6 months, starting with the date the Chief Officer receives the claim.

(5) The court is to determine whether compensation is payable and the amount of compensation payable in such manner as it considers appropriate.

(6) The functions of the Chief Officer in this section are qualified delegated functions.

Power to dig roads and pavements

126.—(1) Subject to prior consultation with the relevant local administrative council, and with the consent of the Area Officer, an authorised person may dig a road or pavement.

(2) The authorised person must—

- (a) ensure the works are adequately fenced and lit at night;
- (b) reinstate the road or pavement to its condition prior to the digging;
- (c) remove debris; and
- (d) complete the works as soon as reasonably practicable.

(3) In this section, the “relevant local administrative council” means the local administrative council within whose boundary the road or pavement lies.

Installation of pumps or pipes etc.

127.—(1) This section applies if works to be carried out in relation to the provision of water involve only —

- (a) the installation of pumps or pipes on or under any land;
- (b) the construction of an underground canal under any land, other than land which is covered with buildings; or
- (c) the renewal of pipes, pumps or canals referred to in paragraphs (a) OR (b).

(2) An Area Officer must give written notice (which may be served by post) to the owner or occupier of such land, or affix a notice in a conspicuous place on the land, giving at least 14 days' notice of the intention to start the works and describe the works which are to be authorised.

(3) If the owner or occupier does not give consent to the works within 14 days, or gives qualified consent, the Chief Officer must determine under what conditions the work may be carried out, and may then authorise the work.

(4) Pipes, pumps and canals (“installations”) to which this section apply, create an easement to the benefit of the Crown.

(5) The consent of the Chief Officer is required for—

- (a) the use of the installations by a person;
- (b) cultivation or construction along the installations; or
- (c) cultivation or construction near the installations such that it may obstruct access.

(6) The Chief Officer must maintain the installations.

(7) The functions of the Chief Officer and Area Officer specified in this section are qualified delegated functions.

Power to request information

128.—(1) The Chief Officer may require the following persons to provide information about the quality and quantity of the water they impound, distribute or use and waterworks they have installed—

- (a) an irrigation association;
- (b) an irrigation division;
- (c) a holder of a permit or licence issued or deemed to be issued under this Ordinance;
- (d) a person who owns water rights;
- (e) a person who distributes water.

(2) A person who fails to comply with a requirement under subsection (1) commits an offence and is liable, on conviction, to imprisonment for a term not exceeding 3 months or a fine not exceeding €850, or to both.

(3) The functions of the Chief Officer specified in this section are general delegated functions.

False statements and interference with meters

129.—(1) A person commits an offence if the person intentionally or recklessly provides false or misleading information of a material fact—

- (a) in response to a requirement to supply information under this Ordinance; or
- (b) in order to obtain a permit, licence or authorisation under this Ordinance.

(2) The Chief Officer may revoke a permit, licence, consent or other authorisation which was obtained as a result of a false or misleading statement of a material fact, without a right to compensation.

(3) A person commits an offence if a person intentionally interferes with a water meter or other measuring device, so as to prevent it functioning or so that it gives false readings—

- (a) required under this Ordinance;
- (b) required as a condition in a permit, licence or other authorisation.

(4) A person who is convicted of an offence under this section is liable to imprisonment for a term not exceeding 12 months, or a fine not exceeding €8,500, or to both.

(5) The functions of the Chief Officer specified in this section are general delegated functions.

Determination of fees, charges, etc.

130. Fees and charges for permits, licences and authorisations under this Ordinance are to be determined in accordance with the corresponding Republican Law.

Penalties for late payment of fees and charges

131.—(1) The penalty for late payment of fees and charges imposed under this Ordinance is to be determined in accordance with the corresponding Republican Law.

(2) If an amount, including a surcharge imposed under subsection (1), is outstanding for more than 60 days, the Administrator may—

- (a) disconnect a water supply;
- (b) prohibit water abstraction from public waterworks;
- (c) prohibit the discharge of waste into a public sewerage treatment plant.

(3) The Administrator must take account of any special circumstances of the debtor before exercising a power under subsection (2).

(4) A person commits an offence if the person fails to pay an amount which has been outstanding for more than 60 days and is liable on conviction to a fine not exceeding €850.

(5) In addition to a fine imposed under subsection (4), the court may order that the person pays the outstanding amount.

(6) Irrespective of whether criminal proceedings are taken, the Chief Officer may recover an amount outstanding by way of civil proceedings.

(7) The functions of the Administrator and the Chief Officer specified in this section are general delegated functions.

(8) In this section “sewerage treatment plant” has the meaning given in section 30(c).

Regulations

132.—(1) The Administrator may make regulations for the better implementation of this Ordinance.

(2) Without limiting the power in subsection (1), regulations may make provision about—

- (a) the installation of waterworks;
- (b) the determination of the size, the nature, the materials, the strength, the quality and the construction of the waterworks as well as connection arrangements, the disconnection, the alteration and repair of waterworks and the way their structure is to be inspected;
- (c) water use and the prevention of waste including excessive consumption, misuse, incorrect measurement and pollution;
- (d) the maintenance of waterworks by authorised water suppliers, irrigation associations and irrigation divisions;
- (e) the supply and use of water in the case of drought or other emergency situation;
- (f) the determination of fees or charges;
- (g) the establishment of a separate fund for each waterworks for the deposit of charges, fees and fines, and the use and control of the fund;
- (h) the determination of the powers and the procedure to be followed by water commissioners;
- (i) regulation of entry into or onto immovable property;
- (j) regulation and management of abstraction works, and the issue of permits and licences;
- (k) regulation of the safety of reservoirs, the collection of information, the preparation of water, environmental protection plans and the management and regulation of waterworks;
- (l) conditions for licensing and the payment of fees for the use of any waterworks for the purpose of fish farming or the conduct of water sports.

(3) Regulations made under this section—

- (a) may apply to one or more waterworks;
- (b) may create offences punishable by —
 - (i) an administrative penalty imposed by the Chief Officer of not more than €1,700;
 - (ii) imprisonment for a term not exceeding 6 months or a fine of €3,400, or to both;
- (c) may have retrospective effect, except for regulations which create a criminal offence or which are made for the purpose of subsection (2)(f).

Offence: obstruction of authorised person

133. A person who, without reasonable cause, obstructs an authorised person in the exercise of that person’s functions under this Ordinance commits an offence and, except where section 122 applies, is liable, on conviction, to imprisonment for a term not exceeding 3 months, or a fine not exceeding €1,700, or to both.

Offence: failure to comply with this Ordinance

134. A person who fails to comply with a provision in this Ordinance commits an offence, and unless another penalty is expressly provided for in this Ordinance is liable, on conviction, to imprisonment for a term not exceeding 12 months, or a fine not exceeding €5,100, or to both.

Offences: bodies corporate

135. Where an offence committed by a body corporate is committed with the consent of, or is attributable to the negligence of, an officer of that body corporate, the officer also commits an offence and is liable, on conviction, to the penalty specified for the offence.

Offences: interim orders

136.—(1) If a person is being prosecuted for an offence under this Ordinance, the Attorney General and Legal Adviser may apply to the court for an interim order to prohibit the person continuing the act to which the prosecution relates.

(2) The court may issue an interim order in accordance with procedures for determining civil disputes, pending judgment in the criminal proceedings.

Criminal Procedure Ordinance

137. ~~Section 88 of the Criminal Procedure Ordinance~~^(a) *Section 52 of the Criminal Procedure Ordinance 2016 (limitation period for certain offences)*^(b) does not apply to prosecution for an offence under this Ordinance.

Collection of unpaid fees and charges

138. The Chief Officer may collect unpaid fees and charges in accordance with the corresponding Republican Law, and the function is a general delegated function.

Power to remedy a breach

139.—(1) Irrespective of whether criminal proceedings are taken, the Chief Officer has the power to remedy the effect of a breach of this Ordinance and recover the cost of so doing from the person responsible for the breach as a civil debt

(2) The function of the Chief Officer specified in this section is a general delegated function.

Effect of suspension or revocation of permit

140.—(1) Where a permit is suspended or revoked, the Chief Officer may direct the permit-holder to remove all waterworks connected with the permit.

(2) If the permit-holder fails to comply with a direction under subsection (1), the Chief Officer may remove the waterworks and recover the reasonable expenses from the permit-holder as a civil debt.

(3) The functions of the Chief Officer specified in this section are general delegated functions.

Leases and licences for mines and quarries

141. The holder of a lease or licence issued under the Mines and Quarries Ordinance 2012 must comply with this Ordinance, irrespective of any conditions imposed in the lease or licence.

(a) Cap 155, Statute Laws of Cyprus revised edition 1959, as applied in the Areas by the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (SI 1960/1369, United Kingdom). Schedule 2 to the Interpretation Ordinance 2012 (Ordinance 8/2012) provides for the interpretation of such legislation.

(b) Text deleted and new text inserted by Ordinance 9/2016 – came into force on 01 May 2016

Emergency -powers

142.—(1) Where a waterworks or property in the area of a waterworks is threatened by an emergency (including but not limited to flooding or spillage), the Chief Officer may direct able-bodied persons resident in the municipality or community, or a neighbouring municipality or community to carry out works with the aim of mitigating the impact of the emergency.

(2) A direction under subsection (1) may be made through radio, television, a public-crier, ringing church bells or any other means the Chief Officer considers appropriate.

(3) A person engaged for the purpose of subsection (1) is to be paid at the average rate for equivalent work in the threatened area.

(4) A person who, without reasonable cause, fails to comply with a direction under subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding €1,700.

(5) In this section “able-bodied” means a person between the ages of 18 and 60 (inclusive) who is not unable to carry out manual work due to a mental or physical disability, but does not include—

- (a) a priest of any domination;
- (b) a mayor;
- (c) a community leader;
- (d) a police officer;
- (e) a person in the service of Her Majesty’s Forces;
- (f) a person employed by the Crown;
- (g) a member of the armed forces or police force of the Republic;
- (h) a person employed in the civil service of the Republic.

(6) The function of the Chief Officer specified in this section is a qualified delegated function.

Special provisions

143.—(1) The prior consent of the Chief Officer is required for the issue of a permit or licence under any other Ordinance to do any act which may adversely affect water sources.

(2) The function of the Chief Officer specified in this section is a qualified delegated function.

Legal proceedings: judicial notice of Republican Law

144.—(1) A court of the Areas may take judicial notice of Republican Law and of any other Republican document of any description granted or otherwise made under Republican Law.

(2) The production of a copy of any legislation of the Republic may be held by a court to be conclusive evidence for all purposes of the due and lawful making of that legislation if it is—

- (a) contained in a printed collection of legislation purporting to be printed and published by an authority of the Republic; or
- (b) contained in either of the following publications—
 - (i) a printed collection of legislation purporting to be printed and published by an authority of the Republic;
 - (ii) an issue of the official Gazette of the Republic.

(3) For the purposes of this section, a version of Republican legislation in the English language may be held by the court to be conclusive evidence for all purposes that such version is the accurate English version of the Republican legislation, or part of the Republican legislation, in question if it —

- (a) purports to be produced by an authority of the Republic;
- (b) is certified as being accurate by an officer of the Administration considered by the court to have been, at the time of such certification, a competent and adequate translator into

the English language from the language in which the Republican legislation was published in the Republic;

(c) is given or produced in the course of oral evidence of a person whom the court considers to be a competent translator for the purpose; or

(d) is stated orally in court or produced in writing by a registrar or official court interpreter,

(4) For the purposes of this section, the production of the following documents may be held by the court to be conclusive evidence for all purposes of the content of the document—

(a) a relevant document, the accuracy of which is certified in writing by a senior officer of the Government Department of the Republic responsible for relevant legislation under which the relevant document in question was made; or

(b) an English translation of a relevant document, the accuracy of which is certified in writing by a translator of recognised competence.

PART 11

REPEALS AND TRANSITIONAL PROVISIONS

Repeal, revocation and interpretation of this Part

145.—(1) The Ordinances specified in Part 1 of Schedule 1 are repealed.

(2) The Public Instruments specified in Part 2 of the Schedule 1 are revoked.

(3) In this Part “the repealed Ordinances” means the Ordinances specified in Part 1 of the Schedule.

Mines and Quarries Ordinance 2012: transitional provisions

146. If a person holds a lease or licence under the Mines and Quarries Ordinance 2012 which permits the removal and transport of stones, sand, gravel or other material (“the material”) from the bed or bank of a river, the person may continue to remove the material until—

(a) the expiry of the lease or licence; or

(b) the conditions of the lease or licence are amended in accordance with that Ordinance.

Public Waterworks Ordinance: transitional provisions

147. Despite the repeal of the Public Waterworks Ordinance (“PWO”),—

(a) the Polemidhia (Garyllis) and Yermasoyia Public Waterworks (Regulation and Management) Regulations 1976^(a) continue to have effect, but if any provisions are inconsistent with provisions in this Ordinance, the provisions in this Ordinance take precedent;

(b) an area which was a recipient area or a water catchment area under the PWO is to be treated as such an area under this Ordinance;

(c) a permit, granted under section 3 of the PWO, which was valid immediately before this Ordinance comes into force,—

(i) to abstract water is deemed to be a water abstraction rights permit

(ii) to make use of water is deemed to be a consent granted under Part 2;

(d) if a person lodged an appeal under section 5B^(b) of the PWO before this Ordinance comes into force, the appeal is to be determined in accordance with the PWO.

(a) P.I. 38/1976 and amended by P.I. 41/1984, 62/1984 and 50/1987.

(b) Section 5B was inserted by section 7 of the Public Waterworks (Amendment) Ordinance 2001 (Ordinance 3/2001).

Wells Ordinance: transitional provisions

148.—(1) Schedule 2 has effect.

(2) The Chief Officer may amend Schedule 2 by order made as a public instrument.

Water Supply (Special Measures) Ordinance 1964: transitional provisions

149.—(1) Paragraphs 1 to 4 of Part 1 of Schedule 2 apply to a permit granted under the Water Supply (Special Measures) Ordinance 1964 (“WSSMO”), where the reference to the Wells Ordinance is to be read as a reference to the WSSMO.

(2) A permit to pump water granted under the WSSMO is deemed to be a water abstraction rights permit.

Transitional provisions: general

150.—(1) Where an application for a permit, licence or other authorisation was made under the repealed Ordinances but was not determined on the day this Ordinance comes into force, the Chief Officer is to treat it as an application under this Ordinance and determine it in accordance with this Ordinance.

(2) Where subsection (1) applies, the Chief Officer may require a person to provide further information in relation to the application in accordance with this Ordinance.

(3) The time for doing any act commenced under the repealed Ordinances is deemed to have commenced under the corresponding provisions of this Ordinance.

(4) The functions of the Chief Officer specified in this section are general delegated functions.

Replacement of existing permits and licences

151.—(1) The Chief Officer may require a person holding a permit or licence granted under the repealed Ordinances, which by virtue of sections 147 to 149 is deemed to be a permit or licence granted under this Ordinance, to return the permit in order for a new permit or licence to be issued under this Ordinance.

(2) The function of the Chief Officer specified in this section is a general delegated function.

SCHEDULE 1

REPEALS AND REVOCATIONS

PART 1

Section 145 (1)

ORDINANCES

1. Public Rivers Protection Ordinance 1980(**a**).

2. Public Waterworks Ordinance(**b**).

3. Public Waterworks (Amendment) Ordinance 1969(**c**).

(a) Ordinance 15/1980.

(b) Cap 341, Statute Laws of Cyprus revised edition 1959, as applied to and adapted in the Areas by the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (SI 1960/1369, United Kingdom). Schedule 2 to the Interpretation Ordinance 2012 (Ordinance 8/12) provides for the interpretation of such legislation, and paragraph 2 of Schedule 5 to that Ordinance makes provision as to the short title of Cap 341.

(c) Ordinance 4/1969.

4. Public Waterworks (Amendment) Ordinance 2001(a).
5. Water (Development and Distribution) Ordinance(b).
6. Water Supply (Special Measures) Ordinance 1964(c).
7. Water Supply (Special Measures) (Amendment) Ordinance 1965(d).
8. Water Supply (Special Measures) (Amendment) Ordinance 1975(e).
9. Water Supply (Special Measures) (Amendment) Ordinance 1991(f).
10. Wells Ordinance(g).
11. Wells (Amendment) Ordinance 1971(h).
12. Wells (Amendment) Ordinance 1974(i).
13. Wells (Amendment) Ordinance 1984(j).
14. Wells (Amendment) Ordinance 1992(k).
15. Wells (Amendment) Ordinance 2003 (l).

PART 2

Section 145(2)

PUBLIC INSTRUMENTS

Instruments made under the Public Rivers Protection Ordinance 1980

16. Kouris River (Protection) Order 1974(m).
17. Public Instrument number 19 of 1981 (Notice under section 5(1)).

Instruments made under the Public Waterworks Ordinance

18. Public Instrument number 39 of 1976 (Appointment of Water Commissioners under section 15).
19. Public Instrument number 48 of 1985 (Order made under section 5(a)).
20. Public Instrument number 34 of 1986 (Appointment of Water Commissioners under section 6).
21. Public Instrument number 2 of 1993 (Appointment of Water Commissioners under section 15).

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- (a) Ordinance 3/2001.
- (b) Cap 348, Statute Laws of Cyprus revised edition 1959, as applied in the Areas by the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (SI 1960/1369, United Kingdom). Schedule 2 to the Interpretation Ordinance 2012 (Ordinance 8/2012) provides for the interpretation of such legislation.
- (c) Ordinance 14/1964.
- (d) Ordinance 8/1965.
- (e) Ordinance 6/1975.
- (f) Ordinance 15/1991.
- (g) Cap 351, Statute Laws of Cyprus revised edition 1959, as applied in the Areas by the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (SI 1960/1369, United Kingdom). Schedule 2 to the Interpretation Ordinance 2012 (Ordinance 8/2012) provides for the interpretation of such legislation.
- (h) Ordinance 6/1971.
- (i) Ordinance 3/1974.
- (j) Ordinance 13/1984.
- (k) Ordinance 5/1992.
- (l) Ordinance 23/2003.
- (m) P.I. 50/1974.

Instruments made under the Water Supply (Special Measures) Ordinance 1964

- 22.** Water Supply (Special Measures) Regulations 1966(a).
- 23.** Water Supply (Special Measures) (Amendment) Regulations 1976(b).
- 24.** Water Supply (Special Measures) (Amendment) Regulations 1985(c).
- 25.** Public Instrument No. 48 of 1970 (Order under section 3(1)).
- 26.** Public Instrument No. 71 of 1988 (Order under section 3(1)).
- 27.** Public Instrument No. 27 of 1997 (Order under section 3(1)).
- 28.** Public Instrument No. 149 of 2004 (Order under section 3(1)).

Instruments made under the Wells Ordinance

- 29.** Public Instrument No. 56 of 1967 (Notice under section 4(2)).
- 30.** Public Instrument No. 84 of 1967 (Notice under section 4(2)).
- 31.** Public Instrument No. 89 of 1967 (Notice under section 4(2)).
- 32.** Public Instrument No. 90 of 1967 (Order under section 4).
- 33.** Public Instrument No. 100 of 1967 (Order under section 4).
- 34.** Public Instrument No. 71 of 1977 (Notice under section 4(2)).
- 35.** Public Instrument No. 10 of 1978 (Order under section 4).

SCHEDULE 2

Section 148

WELLS ORDINANCE: TRANSITIONAL PROVISIONS

PART 1

PERMITS AND LICENCES ISSUED UNDER WELLS ORDINANCE

- 1.** Paragraphs 2 to 4 apply to permits and licences granted under the Wells Ordinance (“WO”) which were valid immediately before the day this Ordinance comes into force.
- 2.** A permit—
 - (a) to sink a borehole, but where work has not commenced or has not been completed on the day this Ordinance comes into force, is deemed to be a waterworks permit;
 - (b) which authorised the abstraction of water from a borehole is deemed to be a water abstraction rights permit;
 - (c) which authorised the deepening or widening of a borehole continues to be valid.
- 3.** The conditions in a permit to which paragraph 2 applies continue to have effect.
- 4.** A person who holds a permit to which paragraph 2(a) applies may apply for a certificate of approval under section 95, and if the permit did not include authorisation to abstract water may

(a) P.I. 50/1966
(b) P.I. 18/1976.
(c) P.I. 19/1985.

apply for a water abstraction rights permit, regardless of whether the person is the owner of the land on which the borehole has been sunk.

5. A driller's licence issued under the WO is deemed to be a driller's licence issued under section 106.

6. Where a person has issued proceedings under sections 8 or 10 of the WO before the day this Ordinance comes into force, the court is to determine the action in accordance with the WO.

7. Where, immediately before the day this Ordinance comes into force, a person has a cause of action under sections 8 or 10 of the WO, and proceedings are issued within 1 month of the day this Ordinance comes into force, the court is to determine the action in accordance with the WO.

8. Where a person has sunk a borehole the day this Ordinance comes into force without a permit under the WO, the person must apply to the Chief Officer to register and licence the borehole under this Ordinance.

9. Subject to Part 2 of this Schedule, an application under paragraph 8 must be made within the period of 3 months, starting on the day this Ordinance comes into force.

PART 2

AGRICULTURE: APPLICANT'S MAIN SOURCE OF INCOME

10. This Part applies where a person (the "applicant") applies in accordance with paragraph 8 and the applicant's main source of income is agriculture.

11. The application must be made within the period of 6 months starting with the day this Ordinance comes into force.

12. Subject to paragraph 13, the Chief Officer may register a borehole and grant a permit, whether or not the conditions in Part 8 are satisfied, providing the application is accompanied by evidence of the applicant's—

- (a) title to the land on which the borehole is situated; and
- (b) possession and use of the borehole.

13. Where a borehole is on land leased by the applicant, the Chief Officer may grant a temporary permit, valid until the expiry of the lease, but which may be renewed if the lease is extended or renewed

14. Where a borehole is on land which the applicant owned or leased, but which the applicant no longer owns or leases due to a boundary change, the Chief Officer may grant a permit for the construction of a borehole on land owned or leased by the applicant.

15. Where the borehole is on the seashore or on land abutting the seashore (as defined in the Seashore Protection Ordinance 2013(a)), the Chief Officer may grant—

- (a) a temporary permit for the borehole;
- (b) a permit for the applicant to construct a borehole on other land owned or leased by the applicant, unless such a construction would contaminate an aquifer with sea water.

16. Where the borehole is on land less than 300 metres from a reservoir, the Chief Officer may grant a permit subject to quantitative restrictions on the amount of water which may be abstracted.

17. Where paragraph 16 applies, and the land is leased—

- (a) if the owner consents, the Chief Officer may grant a temporary permit in accordance with paragraph 12;

(a) Ordinance 10/2013.

- (b) if the owner objects, and within the period of 6 months, starting with the day this Ordinance comes into force, the applicant applies to construct a borehole on other land the applicant owns or leases, the Chief Officer may grant a permit for its construction.

18. Where the applicant does not have title to the land on which the borehole is situated, the Chief Officer may—

- (a) grant a temporary permit to the applicant, which expires when agriculture ceases to be the main source of the applicant's income; and
- (b) if the applicant obtains a lease for the land, convert the permit to a permit for a borehole on leasehold land.

19. The fee for an application under this Part is to be determined in accordance with the corresponding Republican Law.

20. The Chief Officer must grant a permit to the applicant unless sea water flows into the aquifer or the depth of the borehole is such that it may contaminate the aquifer.

21. Despite paragraph 19, no fee is payable where a borehole is closed or retained for emergency use only.

22. A person may apply for a licence under this Ordinance to pipe or transport water from a borehole to be used for irrigation within the period of 6 months starting with the day this Ordinance comes into force.

23. Where the operation of this Schedule affects the sustainability of the applicant's income from agriculture, the Administrator, having regard to the advice of the Chief Officer, may permit a person to take water from a public waterworks or exceptionally grant a permit for a borehole.

PART 3

GENERAL

24. A person contravenes section 80(1) if an application for a permit is not made within the period specified in paragraphs 9 or 11, as is applicable to the case.

25. The functions of the Administrator and the Chief Officer in this Schedule are general delegated functions.

EXPLANATORY NOTE

(This note is not part of the Ordinance)

Introduction

1. This explanatory note relates to the Water (Integrated Management of Water Resources) Ordinance 2014 (the “Ordinance”). It has been prepared by the Office of the Attorney General and Legal Adviser in order to assist the reader of the Ordinance. It does not form part of the Ordinance.
2. This note should be read in conjunction with the Ordinance. It is not, and is not meant to be, a comprehensive description of the Ordinance.

Particular points

3. The purpose of the Ordinance is to mirror the Republic’s Law 79(I)/2010 (Integrated Management of Water Law), referred to in this Note as the “corresponding Republican Law”.
4. Part 1 makes preliminary provisions. Section 2 defines the terms used in the Ordinance. Where applicable, the definitions mirror those in the EU Framework Directive on Water Policy (Directive 2000/60/EC). Section 3 provides that the Ordinance does not apply to the Crown or to activities on land owned or occupied by the Crown. The Administrator is responsible for determining water policy in the Areas, which is reviewed by the Joint Water Committee established under paragraph 3 of section 8 of Part 2 of Annex B to the Treaty of Establishment.
5. Part 2 provides for powers of general management of water resources in the Areas. The powers and duties conferred on the Chief Officer mirror those of the Director of the Water Resources Department in the Republic. The powers and duties are qualified delegated functions for the purpose of the Delegation of Functions to the Republic Ordinance 2007. The effect of this is that Republican officials must consult the Administration before exercising the functions.
6. Part 3 contains general provisions in relation to water supply, Part 4 provisions relating to water to be used for irrigation, and Part 5 provisions relating to urban sewerage by reference to the Sewerage Ordinance 2008.
7. Part 6 provides the framework for the construction of public waterworks projects in the Areas. This Part re-enacts, with amendments, the Public Waterworks Ordinance (Cap. 341). Where the Chief Officer considers that construction of public waterworks would adversely affect existing water rights, the Administrator must appoint 3 persons as water commissioners. Their role is to conduct an enquiry and publish a register of rights they find will be affected. The register is conclusive and used as the basis for compulsory acquisition of the rights or termination of the rights by agreement. The functions of the Chief Officer in this Part are delegated to the Republic.
8. Part 7 sets out the regulatory regime for the construction and supervision of large raised reservoirs. These are defined as having a capacity of more than 25,000 cubic metres or more, which hold water above the natural level of surrounding land. Construction must be supervised by a qualified civil engineer and the reservoir may be filled with water only in accordance with a certificate from that engineer. The competent authority managing a large raised reservoir must appoint a supervising engineer and arrange for regular inspections of the reservoir. Recommendations of measures required on grounds of safety must be implemented. In the case of disagreement, there is provision for referral to arbitration. Duties are placed on the competent authority managing a reservoir to keep specified records and provide information to the Chief Officer. Failure by the competent authority to comply with provisions in this Part is an offence. The functions of the Chief Officer in this Part are delegated to the Republic.

9. Part 8 re-enacts, with amendments, the Wells Ordinance (Cap. 351) and the Water Supply (Special Measures) Ordinance 1964. A permit is required to dig a borehole, construct any other type of waterworks, to impound water, and to abstract water from a borehole or other waterworks. This Part sets out who may apply for a permit, factors to be taken into account in deciding whether a permit is granted and conditions which may be placed on a permit. Fees for the grant of the permit are by reference to the fees in the corresponding Republican Law. There are powers to revoke a permit. It is an offence to dig a borehole or construct any other type of waterworks, to impound or abstract water without a permit or to fail to comply with conditions in a permit. The majority of the functions of the Chief Officer in this Part are qualified delegated functions.
10. Part 9 re-enacts, with amendments, the Public Rivers Protection Ordinance 1980. A licence is required to do specified works in relation to a river including taking stones, gravel etc, and installing machinery. Failure to comply is a criminal offence.
11. Part 10 contains various miscellaneous provisions, including powers of entry to enforce provisions in the Ordinance and maintain waterworks. It provides that all fees and charges are determined by reference to the corresponding Republican Law and makes provision for penalties for late payment. There is a power for the Administrator to make regulations, further provisions relating to offences and a power for the Chief Officer to require the assistance of able-bodied people in the community in the event of an emergency, such as flooding or spillage.
12. Part 11 repeals the Public Rivers Protection Ordinance 1980, the Public Waterworks Ordinance, the Water Supply and Distribution Ordinance, the Water Supply (Special Measures) Ordinance 1964 and the Wells Ordinance, and revokes various regulations, notices and orders made under these Ordinances. Under transitional provisions, permits issued under the Ordinances which are repealed are deemed to be permits issued under the Ordinance. A person who has sunk a borehole without a permit must apply for a permit under the Ordinance within 6 months of the Ordinance coming into force.
13. Schedule 1 lists the Ordinances which are repealed and the public instruments which are revoked. Schedule 2 makes detailed transitional provisions in connection with permits for boreholes which were not licensed under the Wells Ordinance, with special provision for persons making an application for a permit whose main source of income is agriculture.