

CAYMAN ISLANDS



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**THE WATER AUTHORITY (AMENDMENT) LAW, 2017**

**(LAW 17 OF 2017)**

**THE WATER AUTHORITY (AMENDMENT) LAW, 2017**

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CAYMAN ISLANDS

Law 17 of 2017.

I Assent

Franz Manderson

Acting Governor.

8<sup>th</sup> May, 2017

**A LAW TO AMEND THE WATER AUTHORITY LAW (2011 REVISION)  
AS A CONSEQUENCE OF THE ESTABLISHMENT OF THE UTILITY  
REGULATION AND COMPETITION OFFICE; TO TRANSFER THE  
WATER AUTHORITY'S ECONOMIC REGULATORY  
RESPONSIBILITIES TO THE UTILITY REGULATION AND  
COMPETITION OFFICE; AND FOR INCIDENTAL AND CONNECTED  
PURPOSES**

ENACTED by the Legislature of the Cayman Islands.

1. (1) This Law may be cited as the Water Authority (Amendment) Law, 2017.

Short title and  
commencement

(2) This Law shall come into force on such date as may be appointed by Order made by the Cabinet and different dates may be appointed for different provisions of this Law and in relation to different matters.

2. The Water Authority Law (2011 Revision), in this Law referred to as the "principal Law" is amended in section 2(1) as follows -

Amendment of section 2  
of the Water Authority  
Law (2011 Revision)-  
definitions and  
interpretation

(a) by inserting, in the appropriate alphabetical sequence, the following definitions -

“administrative determination” has the meaning assigned to that expression by section 2(1) of the Utility Regulation and Competition Law, 2016;

“concession” means an instrument by which the Cabinet grants a right or privilege enabling a person -

- (a) to produce or supply water, or both, under the Water (Production and Supply) Law, 2011; or
- (b) to collect, convey and treat wastewater under the Wastewater Collection and Treatment Law, 2011;

“non-potable water” means water which may or may not be potable water but can be beneficially used, and does not include process water, wastewater or trade effluent;

“Office” means the Utility Regulation and Competition Office established under section 4 of the Utility Regulation and Competition Law, 2016;

“potable water” means water which is intended for consumption by humans, that is, water which has no impurities present in amounts sufficient to cause disease or harmful physiological effects, and the bacteriological and chemical and aesthetic quality parameters of which comply with values established under section 4 of the Public Health Law (2002 Revision) or, if none have been established, standards established by the Authority;

“process water” means water used in an industrial process, such as water used for rinsing, cooling, chemical reactions, and gas scrubbing, and which may require specific treatment to produce the quality of water needed for the process but does not include water that will be used in the actual product manufactured;

“service provider” means the Authority or any concessionaire that has been issued with a licence by the Office to provide water or wastewater services;

“wastewater” means any waste substance, liquid or solid, associated with human habitation, or which contains or may be contaminated with human or animal excrement or offal;

“wastewater system” means all works related to the collection, conveyance, treatment and disposal of wastewater;

“water” means potable water and non-potable water; and

“water resources” includes -

- (a) water flowing or situated upon the surface of any land;
  - (b) water flowing or contained in any natural course for water or any lake or spring, whether or not it has been altered or artificially improved;
  - (c) estuarine or coastal water;
  - (d) groundwater, including groundwater lens; and
  - (e) any watercourse;”;
- (b) in the definition of the words “capital investment plan” by deleting the word “concessionaire” and substituting the words “service provider” and by deleting the word “Authority” and substituting the word “Office”;
- (c) by deleting the definition of the word “concessionaire” and substituting the following definition -
- “ “concessionaire” means a person to whom a concession has been granted;”;
- (d) by deleting the definitions of the words “consumer”, “Governor” and “rate cap and adjustment mechanism;”;
- (e) by deleting the definition of the word “licence” and substituting the following definition -
- “ “licence” means a permit or other enabling instrument issued by the Authority under this Law;”;
- (f) by deleting the definition of the word “wastewater” and substituting the following definition -
- “ “wastewater” means any waste substance, liquid or solid, associated with human habitation, or which contains or may be contaminated with human or animal excrete or offal, or trade effluent, or both, from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface runoff or leachate that may be present;”;
- (g) by deleting the definition of the words “water resources” and substituting the following definition -

“ “water resources” means canals, ground water, groundwater lenses, ponds, territorial waters and underground water;”; and

- (h) by deleting the definition of the word “works” and substituting the following definition -

“ “works” includes wells, desalination plants, pumping installations, pipelines, reservoirs, tanks, ponds, valves, building, machinery, metering devices and other apparatus constructed for or used in connection with the abstraction or storage of ground water, the conveyance of water or wastewater, the processing of water, the treatment of wastewater, the use of ground water for any purpose or the introduction of fluids directly into ground water whether by means of a well or pipe or otherwise.”.

Amendment of heading of Part II - Central Administration

3. The principal Law is amended by deleting the heading of Part II and substituting the following heading -

**“PART II - Establishment, functions and duties of the Water Authority”.**

Amendment of section 6 - duty of Authority in regard to water supply and sewerage

4. The principal Law is amended in section 6 as follows -

- (a) in paragraphs (a) and (b) by deleting the words “on terms to be agreed by the Authority” and substituting the words “forms part of capital investment plans approved by the Office”; and  
(b) by repealing paragraph (d).

Amendment of section 7 - powers of Authority in regard to water supply and sewerage

5. The principal Law is amended in section 7 as follows -

- (a) in subsection (1) -  
(i) by deleting the words “including the sole right” and substituting the words “including (subject to any concession in force) the sole right”;  
(ii) by inserting the word “and” at the end of paragraph (g);  
(iii) in paragraph (h) by deleting “; and” and substituting a full stop; and  
(iv) by repealing paragraph (i);  
(b) in subsection (4) by inserting after the word “appropriate” the words “but rates and charges for the provision of water supply and wastewater services shall not be fixed or imposed without the prior written approval of the Office”;  
(c) by repealing subsections (5), (6), (9) and (10); and  
(d) by repealing subsection (7) and substituting the following subsection -

“ (7) The Authority shall establish minimum environmental standards for the protection of the environment generally, including standards for the limitation of discharge into the atmosphere, water or land and provisions for compliance with these standards shall be included as licence obligations in licences or administrative determinations issued by the Office under the Water Sector Regulation Law, 2017 or any other Law in force in relation to water or wastewater.”.

6. The principal Law is amended by inserting after section 65 the following section -

Insertion of section 65A  
- order for payment of  
compensation

“Order for payment of compensation 65A.(1) Where a person is convicted of an offence under this Law, the court may make an order for the payment of compensation to any person for damage caused by the offence.

(2) A claim by a person for damages sustained by reason of the offence shall be deemed to have been satisfied to the extent of any amount which has been paid to that person under an order for compensation, but the order shall not prejudice any right to a civil remedy for the recovery of damages from the person convicted of the offence beyond the amount of compensation paid under the order.”.

7. The principal Law is amended in section 70 as follows -

Amendment of section  
70 - power to make  
regulations

- (a) by deleting the words “(1) The Governor” and substituting the words “The Cabinet”;
- (b) by repealing paragraph (j) and substituting the following paragraph -
  - “(j) prescribing charges and fees, or the criteria for calculating charges and fees, to be paid by service providers to the Authority in respect of the various statutory functions exercised by the Authority under this Law;”; and
- (c) by repealing paragraphs (k), (l), (m) and (n).

8. The principal Law is amended by deleting the word “Governor” wherever it appears and substituting the word “Cabinet”.

Amendment of  
miscellaneous sections -  
substitution of the word  
“Cabinet” for the word  
“Governor”

Amendment of miscellaneous sections - substitution of the word "wastewater" for the words "sewage" and "sewerage"  
Transitional provisions

Law 2 of 2011

Law 3 of 2011

9. The principal Law is amended by deleting the words "sewage" and "sewerage" wherever they appear and substituting the word "wastewater".

10. (1) A licence or other enabling instrument issued to a person to provide any aspect of water supply or wastewater services, pursuant to the Water (Production and Supply) Law, 2011 or the Wastewater Collection and Treatment Law, 2011, in the Islands and valid and in force immediately prior to the coming into force of this Law, shall, on the coming into force of this Law, continue valid and in force for the remainder of the term as if it were a licence or enabling instrument granted under the Water Sector Regulation Law, 2017 and the licence or enabling instrument shall continue to be subject to each and every one of the terms, conditions and exemptions attaching to the licence or enabling instrument as if the terms, conditions and exemptions had been imposed or granted under the Water Sector Regulation Law, 2017.

(2) Where a person who possesses a licence or enabling instrument as described in subsection (1) has entered into an agreement with the Water Authority, being an agreement to surrender and terminate the licence or enabling instrument and to replace the same with a new licence or licences, immediately upon the surrender and termination of the licence or enabling instrument, the Office shall grant to that person the new licences on such terms, conditions and exemptions as have been so agreed, but the licences shall otherwise be subject to the Water Sector Regulation Law, 2017.

(3) Where, immediately prior to the coming into force of this Law, a person is in the process of negotiating with the Water Authority an agreement to provide any aspect of water supply or wastewater services, pursuant to the Water (Production and Supply) Law, 2011 or the Wastewater Collection and Treatment Law, 2011, those negotiations shall, on the coming into force of this Law, cease and the Office shall continue the negotiations pursuant to its functions and powers under the Water Sector Regulation Law, 2016.

(4) A licence or other enabling instrument issued to a person to provide any aspect of water supply or wastewater services, pursuant to the Water (Production and Supply) Law, 2011 or Wastewater Collection and Treatment Law, 2011, in the Islands and valid and in force immediately prior to the coming into force of this Law shall, on the coming into force of this Law, be subject to the provisions of the Water Sector Regulation Law, 2017 and the authority of the Office, as though the licence or enabling instrument were issued by the Office under the Water Sector Regulation Law, 2017.

(5) All rates and charges, standards or any rules or regulatory policies that are in effect on the date of commencement of this Law shall, on the coming into



force of this Law, remain in effect as though they were determined by the Office until otherwise modified, replaced or repealed by the Office.

(6) In this section -

“Office” and “potable water” have the meanings respectively assigned to those expressions in the principal Law.

Passed by the Legislative Assembly the 27<sup>th</sup> day of March, 2017.

Juliana O’Connor-Connolly

Speaker.

Zena Merren-Chin

Clerk of the Legislative Assembly.