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THE WATER (PRODUCTION AND SUPPLY) LAW (15 OF 1979)

(1996 Revision)

Consolidated with Law 4 of 1991.

Revised under the authority of the Law Revision Law (19 of 1975).

Originally enacted-

Law 15 of 1979-11th April, 1979
Law 4 of 1991-21st February, 1991

Consolidated and revised this 13th day of August, 1996.

WATER (PRODUCTION AND SUPPLY) LAW

(1996 Revision)

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WATER (PRODUCTION AND SUPPLY) LAW

(1996 Revision)

1. (1) This Law may be cited as the Water (Production and Supply) Law (1996 Revision).

Short title and application

(2) This Law shall apply to the whole of the Islands or to such part or parts thereof as the Governor may, from time to time, declare by notice published in the Gazette.

2. In this Law-

Definitions

“concession” includes any instrument whereby the Governor grants a right or privilege enabling a person, exclusively or subject to restriction, to produce and supply water in the Islands upon and subject to such terms and conditions as may be expressed or implied in such instrument or provided for under this or any other law;

“concessionaire” means a person to whom a right or privilege has been granted under a concession;

“domestic use” has the meaning assigned to that expression by section 2(1) of the Water Authority Law (1996 Revision), but does not include condominiums, apartments, or other residential units which share common services;

1996 Revision

“Governor” means the Governor in Council;

“produce” means to take from any reservoir, pond, well, cistern or other place and includes to recover or process water by distillation, purification, desalination or otherwise;

“water” includes non-potable water;

“water system” means the operative method whereby the production and supply of water is effected; and

“works” include wells, desalination plants, pipes, tanks, ponds, reservoirs, pumping stations, valves, hydrants, buildings, machinery, metering devices and other apparatus used in a water system.

- Governor may grant concessions
3. (1) The Governor may grant concessions under this Law subject to such terms and conditions as to geographical area, means of production, volume, pressure, hygiene, charges, fees, inspection, number and location of outlets, reporting and accounting, power of acquisition by the Government, cancellation, suspension or such other matters as may be prescribed or mutually agreed between the Governor and the concessionaire.
- 1996 Revision
- (2) Before the Governor may grant any concession under subsection (1) he shall seek the advice of the Water Authority which shall advise him pursuant to section 6(c) of the Water Authority Law (1996 Revision).
- Application of certain other laws
- 1996 Revision
4. A concessionaire under this Law is deemed-
- (a) if a company, to be the holder of a franchise for the purpose of section 4 (1) (d) of the Local Companies (Control) Law (1996 Revision); or
 - (b) if an individual, to be employed by the Government of the Islands for the purpose of section 26(1)(a)(i) of the Immigration Law, 1992.
- Law 13 of 1992
- Protection of concessionaires from distress, etc.
5. Where a concessionaire places or installs works upon any private premises, such works are not subject to distress or any other landlord's remedy for non-payment of any rent nor are they liable to be taken in execution by any process of any court against any person other than the concessionaire.
- Supply of water
6. A concessionaire may, within the terms of his concession, supply water to any person:
- Provided that a concessionaire may, subject to the terms of his concession but notwithstanding any other agreement to the contrary, without incurring any liability for so doing other than to make a proportionate abatement in any agreed charge or rate, reduce the volume, or pressure of supply if, by reason of any unusual or unforeseen circumstances, he is of the opinion that maintenance of a full supply would be onerous.
- Supply of water to defaulters may be cut off while default continues
7. Where any person otherwise entitled to be supplied with water under a concession makes default in any payment due under such agreement or takes water excessively beyond his reasonable needs, the concessionaire may cut off and discontinue such supply using any reasonable means in that behalf until the amount due together with any incidental expenses incurred to the concessionaire have been paid, whereupon the supply shall be restored without unnecessary delay.

8. A concessionaire may, from time to time, appoint inspectors whose identity shall be made known to the Governor and who shall wear or carry such means of identification, if any, as may be prescribed, and such inspectors may, at all reasonable times, enter any supplied premises with necessary workmen, machinery and equipment to examine, remove, repair or adjust any works of the concessionaire and the concessionaire shall restore or give compensation for any damage caused by his own default or that of his inspectors or workmen in so doing.

Inspection, etc., of supplied premises

9. For the purpose of initiating or maintaining a water supply to the public the concessionaire may, on giving to occupiers seven days' notice in that behalf, or without such notice in any case of emergency, enter upon any enclosed or other premises other than buildings for the purpose of installing, improving or maintaining any works:

Concessionaire's powers of entry, etc.

Provided that -

- (a) a concessionaire shall not thereby acquire any right over any land other than for the purpose of supply in accordance with its concession and in terms of compensation to occupiers for any consequential nuisance or damage;
- (b) in case of serious risk of flooding or for the provision of a water supply for the purpose of fire fighting, a concessionaire may enter without notice upon any building accompanied, if practicable, by a constable; and
- (c) where a nuisance or damage is caused to any person by reason of any action of a concessionaire (including any of his servants) taken under this section and compensation cannot be agreed, the question of the quantum of compensation shall be referred to arbitration under the Arbitration Law (1996 Revision).

1996 Revision

10. Where any private installation or works interferes or appears calculated to interfere with a water system, a summary court may, upon the application of the concessionaire in that behalf and after hearing any party who would or might thereby be affected, make an order empowering the concessionaire to make such alteration or adjustment of such private installation as to the court appears just upon such terms as to compensation, if any, as appears just, and in hearing and determining such application the court shall, as nearly as may be, follow its usual procedure in civil cases.

Interference by private installations

11. The Governor may make Regulations for carrying this Law into effect and, without prejudice to the generality of this provision, for prescribing-

Regulations

- (a) the health and safety standards and precautions in relation to the production and supply of water;
- (b) the rates of compensation for damage to members of the public arising from the production or supplying of water;
- (c) for the establishment, management and payment of compensation for wayleaves;
- (d) for applications for, and granting of, concessions;
- (e) for the establishment of a Compensation Assessment Tribunal for the assessment of compensation claims arising from the production and supplying of water;
- (f) the terms and conditions upon and subject to which a concession shall, or may be granted;
- (g) provision for appeals against the decisions of the Compensation Assessment Tribunal;
- (h) rules to enable the Attorney-General on behalf of the public to claim damages for pollution or other injury to public amenities arising from the production and supplying of water;
- (i) penalties for contravention of such regulations; and
- (j) any matters required by this Law to be prescribed.

Penalties

12. (1) Whoever-

- (a) subject to subsection (2)-
 - (i) produces water with the intention of supplying it for reward; or
 - (ii) supplies water for reward;
- (b) contravenes any provision of this Law; or
- (c) for any purpose connected with this Law makes any statement or representation in the truth of which he does not believe, proof of his belief being upon him,

is guilty of an offence and liable on summary conviction to a fine of five thousand dollars and to imprisonment for one year, and, in the case of a continuing offence, a fine of one hundred dollars per day for each day the offence continues after conviction in the first instance.

(2) Paragraph (a) of subsection (1) has no application to -

- (a) the production of water in quantities of one hundred gallons or less in any one day;
- (b) concessionaires operating within the terms of their concessions;
- (c) customs officers and constables acting in the course of their duty;

- (d) persons acting for the purpose of averting danger arising from fire or other happening likely to or capable of causing damage to persons or property;
- (e) persons engaged in the watering of ships or aircraft;
- (f) the production or supply of water by the Government, the armed forces of Her Majesty, the police or fire services or any statutory body, government agent or public servant;
- (g) water produced on private residential property for domestic use thereon;
- (h) water supplied by the management of condominiums, apartment complexes, multi-family dwellings, hotels or any other commercial enterprise, for use on their premises by residents therein, provided that the water so supplied is obtained from a concessionaire;
- (i) the supply of water other than piped water; and
- (j) persons specifically exempted by the Governor by Order published in the Gazette:

Provided that nothing in paragraph (g) or (h) shall affect the production or supply of water (or both) made after the 6th May, 1991 if such production or supply (or both) takes place from any water system or works in operation before that date.

(3) Whoever-

- (a) unlawfully and maliciously destroys or does damage to any water system or works or pollutes or diverts any water in a system;
- (b) with intent to defraud, extracts water from a water system;
- (c) obstructs the execution of any works or any employee of a concessionaire while engaged in his duties as such; or
- (d) aids or abets, or having control of any person, permits such person to contravene paragraphs (a), (b) or (c),

is guilty of an offence and in the case of an offence against paragraph (a) liable upon conviction upon indictment to a fine of five thousand dollars and to imprisonment for five years, or upon summary conviction to a fine of one thousand dollars and to imprisonment for one year, and in the case of an offence against paragraph (b) or (c) or of any other contravention of this Law liable upon summary conviction to a to a fine of one thousand dollars and to imprisonment for one year and, in the case of an offence against paragraph (b), liable to an additional fine of twenty dollars per day for each day the offence is continued; and the court may, in addition to any other penalty, order the convicted person to

pay such compensation to the concessionaire or to any other person who has suffered consequential damage as to it appears just.

Crown not bound

13. This Law does not bind the Crown.

Publication in consolidated and revised form authorised by the Governor in Council this 13th day of August, 1996.

Meredith Hew

Acting Clerk of Executive Council

**Note (not forming part of the Law)*

By Notice made by the Governor in Council on the 7th December, 1979 under section 1(2) of the Water (Production and Supply) Law, 1979 and published in Gazette No. 27 of 31st December, 1979 it was declared that the Law applied, with effect from the 7th December, 1979 to the following part of the Islands-

SCHEDULE

That area of Grand Cayman bordered in red on Boundary Plan No. 29 lodged in the office of the Chief Surveyor which area is more particularly described as bounded by a line commencing at the south west corner of West Bay Cemetery Parcel No. 5C124 Map Reference 584411, thence proceeding along the parcel boundaries as shown on the said Boundary Plan to Salt Creek Map Reference 601408, thence proceeding southerly and easterly following the high water mark of the North Sound to where it intersects the northern boundary of Parcel No. 19A1, thence proceeding westerly following the parcel boundaries as shown on the said Boundary Plan to the sea and the north west corner of George Town Cemetery Parcel No. 13E13 Map Reference 595346, thence proceeding northerly following the high water mark to the point of commencement.