



ANGUILLA

DEPARTMENT OF WATER SERVICES ACT, 2024

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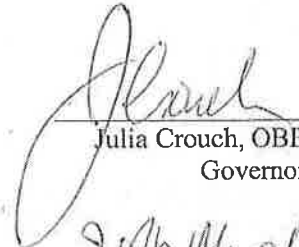
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I Assent


Julia Crouch, OBE
Governor
28th March 2024
Date

ANGUILLA

NO. 10/2024

DEPARTMENT OF WATER SERVICES ACT, 2024[Gazette Dated: 28th March, 2024] [Commencement: Section 34]

An Act to dissolve the statutory structure called the “Water Corporation of Anguilla” and consequently to transfer waterworks, wayleaves and other personal and real assets and interests of the Corporation to the Government, to regulate the distribution and supply of piped potable water by the Department of Water Services under the Ministry responsible for waterworks and to provide for transitional, incidental and ancillary matters.

ENACTED by the Legislature of Anguilla

PART 1**PRELIMINARY****Interpretation**

1. In this Act—

“abstract” includes divert;

“charge associated with water service” means a charge referred to in section 18;

“charge for water service”, in relation to a customer, means—

- (a) subject to paragraph (b), a charge to the customer referred to in section 17(1); or
- (b) in the case that the Department and a customer have entered into a special agreement referred to in section 17(6), the charge to the customer set out in such agreement;

“Chief Engineer” means the Chief Engineer under the Roads Act;

“Corporation” means the Water Corporation of Anguilla established under section 2 of the repealed Act;

“Court” means the Magistrate’s Court;

“customer” means a customer of the Department;

“Department” means the Department of Water Services;

“land” means land as defined in the Registered Land Act;

“Ministry” means the Ministry responsible for waterworks;

“operator” has the meaning assigned to it in the Telecommunications Act;

“piped water” means water supplied through a system of waterworks to the public but does not include water supplied by—

- (a) a person who in connection with his or her business operations on his or her premises supplies water by waterworks for public consumption by persons on those premises if the water is not supplied by waterworks off those premises, whether or not the water is water treated or supplied, or both, by the person or supplied by the Department to the person;
- (b) a landlord who in connection with the lease or rental of his or her premises supplies water by waterworks to those premises for public consumption by persons on those premises if the water is not supplied by waterworks off those premises, whether or not the water is water treated or supplied, or both, by the landlord or supplied by the Department to the landlord; or
- (c) any person or operation exempted by regulation;

“private land” means land registered under the Registered Land Act in the name of an owner, but does not include a private road;

“private road” means a road, other than a public road, that is used as a thoroughfare by members of the public;

“public road” means a road as defined in section 1 of the Roads Act and includes a road deemed to be a public road under section 4 of that Act;

“public utility” means a public utility as defined in the Public Utilities Commission Act;

“reinstate”, in relation to land, includes making good any damage to the land and the removal of excess excavated material from the land;

“repealed Act” means the Water Corporation of Anguilla Act;

“service connection” means the connection of waterworks from the nearest convenient point of the water-main of the Department to the point on the premises of the customer where the water meter of the Department is installed and includes the water meter;

“water-main” means a pipeline through which water is or is intended to be distributed for consumption by the public generally;

“water service” means the supply of piped water to a customer on his or her premises by the Department and includes the right to have water supplied by pipe to the customer on his or her premises by the Department; and

“waterworks” means the water-mains, pipes, valves, fittings, pumps, pumping stations, tanks, washouts, standpipes, water meters and appurtenances used in, or in relation to, the conveyance of water.

PART 2

DEPARTMENT OF WATER SERVICES

Dissolution of Water Corporation and replacement by the Department of Water Services

2. The statutory structure called the “Water Corporation of Anguilla” is dissolved and replaced by the “Department of Water Services” under the Ministry.

Vesting of waterworks, wayleaves, etc. of Corporation in Government

3. (1) The waterworks that, immediately before the coming into force of this Act, were vested in the Corporation vest in the Government.

(2) All wayleaves, easements and other rights in relation to land of whatsoever nature that, immediately before the coming into force of this Act, were enjoyed by the Corporation in, on, through, under or over any land in connection with or in relation to the waterworks referred to in subsection (1) vest in the Government.

Prohibition on supply of piped water except by Department

4. (1) The Department shall be the sole supplier of piped water.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of \$5,000 or to imprisonment for a term of 6 months, and the Court may, in addition to convicting the person, make an order prohibiting the person from supplying piped water in contravention of subsection (1).

Powers and functions of the Chief Water Engineer

5. (1) The Chief Water Engineer shall control, manage, maintain and supervise all watercourses and waterworks and shall provide, so far as is practicable, an adequate water supply for any person considered a consumer for the purposes of this Act.

(2) It shall be lawful for the Chief Water Engineer to—

- (a) construct or lay down any waterworks for improving or augmenting the water supply;
- (b) whenever it may be expedient or necessary for the purposes of—
 - (i) conserving the water supply or for extending, altering or repairing the waterworks,
 - (ii) connecting or repairing water services, or
 - (iii) in the case of fire, diminish, withhold, suspend or divert, without prejudice to the payment of the water rate, the supply of water through the waters works; and
- (c) carry out such other functions incidental to the exercise of his powers under this section.

(3) Where it is necessary for the Chief Water Engineer to break open any road, sewer, drain or tunnel within or under any road, for the purpose of constructing, altering, maintaining or repairing any waterworks, the Chief Water Engineer shall—

- (a) give not less than 48 hours written notice of his intentions to break open any road, sewer, drain or tunnel within or under any road or, in the case of an emergency, such written notice as is reasonably practicable in the circumstances, to—
 - (i) the Chief Engineer requesting his consent, and
 - (ii) Commissioner of Police;

and shall give a general description of what he proposes to do and where and when he proposes to do it.

(4) The Chief Engineer may make his consent subject to conditions, written or otherwise.

(5) The Chief Water Engineer shall comply with any conditions the Chief Engineer may impose.

(6) To avoid doubt, the Chief Water Engineer shall not break open any road, sewer, drain or tunnel within or under any road without the written consent of the Chief Engineer.

PART 3

RIGHTS OF ENTRY

Entry onto private road or private land

6. (1) The Chief Water Engineer, on entering a private road or on private land—
- (a) must produce, on request, a document of identity duly authenticated by the Department; and
 - (b) may, at any reasonable time and after reasonable notice to the owner or occupier, enter on the private road or private land together with such other persons, equipment and materials as are reasonably required to assist him or her in carrying out the purposes of the entry.
- (2) Without prejudice to subsection (1)(b), the Chief Water Engineer, on entering on a private road or on private land may enter upon any land for the purpose of—
- (a) reading, removing or repairing a water meter; or
 - (b) inspecting any waterworks or any installations or appliances respecting any waterworks.
- (3) In addition to the right of entry associated with a wayleave under this Act, the Chief Water Engineer may enter on a private road or private land for the purpose of—
- (a) determining whether the land is suitable for the purposes of a wayleave and may make excavations, perform tests, take samples of soil or rock and do other similar things that are reasonably necessary for the purpose;
 - (b) reading water meters; or
 - (c) inspecting service connections and other installations on the private road or private land for the purpose of enforcing this Act.
- (4) In exercising the rights of entry under subsection (3), the Chief Water Engineer shall rectify any damage caused.
- (5) Where the Chief Water Engineer fails to rectify any damage caused in exercising the rights of entry under subsection (3) the Department shall pay compensation to rectify such damage.

Warrant for entry

7. When it is shown to the satisfaction of the Magistrate, on information on oath, that—
- (a) entry onto a private road or private land specified in the information is reasonably required by the Chief Water Engineer for a purpose specified in the information; and

(b) the Chief Water Engineer is entitled under this Act to exercise that right of entry; the Magistrate may by warrant, authorise the Chief Water Engineer to enter onto the private road or private land upon compliance with the requirements of this Act relevant to the exercise of the right of entry and, if necessary, by the use of force.

PART 4

WAYLEAVES IN PRIVATE ROADS AND PRIVATE LAND

Acquisition of wayleaves in private roads

8. (1) The Chief Water Engineer may, in accordance with this section, acquire a wayleave to enter and—

- (a) place waterworks in, on, through, under or over a private road;
- (b) maintain, repair, alter, move, remove, replace, inspect, adjust or test any of those waterworks; and
- (c) execute any works that are reasonably necessary in relation to the exercise of its rights under paragraph (a) or (b), including breaking up, excavating and temporarily obstructing any private road.

(2) A wayleave may only be acquired under this section in, on, through, under or over a private road with the consent of the owner of the private road.

(3) The consent of the owner may be by agreement and may be subject to conditions.

Exercise of rights under wayleaves in private roads

9. (1) This section applies to wayleaves in, on, through, under or over a private road that are vested in the Government on the coming into force of this Act or acquired by the Government under this Act.

(2) The exercise by the Chief Water Engineer of the rights under a wayleave in a private road as provided under this Act is subject to the conditions under section 8(3).

(3) The Chief Water Engineer shall give not less than 48 hours written notice of its intention to exercise its rights under the wayleave in, on, through, under or over a private road or, in the case of an emergency, as much notice as is reasonably practicable in the circumstances, to—

- (a) the Chief Engineer;
- (b) the Commissioner of Police; and
- (c) the owner of the private road;

and shall give a general description of what it proposes to do and where and when it proposes to do it.

(4) The Chief Engineer may impose in writing or otherwise any reasonable conditions on the exercise of the Departments rights under a wayleave in a private road.

(5) The Chief Water Engineer shall comply with such conditions as the Chief Engineer may impose.

(6) In exercising the rights under section 8(1), the Chief Water Engineer shall—

- (a) within a reasonable time proceed to complete the placement, maintenance, repair, alteration, movement, removal, replacement, inspection, adjustment or testing of the waterworks;
- (b) do as little damage as possible to the private road or anything on the private road;
- (c) within a reasonable time, reinstate the private road to the reasonable satisfaction of the owner or pay compensation for its failure to do so;
- (d) until the private road is reinstated, erect and maintain warning signs and devices, including lights or flares, as required by the Commissioner of Police, to give users of the private road reasonable notice that the road is broken up, excavated or temporarily obstructed;
- (e) be responsible for remedying any defect in the reinstatement of the private road, including any subsidence, for a period of 3 months after completion of the reinstatement, or for paying compensation for its failure to do so; and
- (f) take reasonable care not to damage the installations of—
 - (i) any other public utility or operator, or
 - (ii) persons authorised by the owner to be placed;in, on, through, under or over the right of way of a private road and shall, within a reasonable time, rectify any damage caused to any such installations or pay compensation for its failure to do so.

Acquisition of wayleaves in private land

10. (1) The Chief Water Engineer may, in accordance with this section, acquire a wayleave to enter and—

- (a) place waterworks in, on, through, under or over private land;
- (b) maintain, repair, alter, remove, replace, inspect, adjust or test any of those waterworks; and
- (c) execute any works in relation to the exercise of its powers under paragraph (a) or (b) including breaking up, excavating and temporarily interfering with the use of the private land.

(2) For greater certainty, nothing in subsection (1) gives Chief Water Engineer the right—

- (a) to alter, move or interfere with, or place waterworks under, any buildings on the private land;
- (b) to move waterworks placed under subsection (1) to a new location on the private land, if the centre line of the new location is more than 2 feet in either direction from the centre line of the original waterworks; or
- (c) in the case of subsection (1)(c), to break up, excavate or interfere with the use of the private land more than is reasonably necessary to execute the works.

(3) A wayleave may only be acquired under this section in, on, through, under or over private land with the consent of the owner of the land.

(4) The consent of the owner may be by agreement and may be subject to conditions.

Exercise of rights under wayleaves in private land

11. (1) This section applies to wayleaves in, on, through, under or over private land that are vested in the Government on the coming into force of this Act or acquired by it under this Act.

(2) The exercise by the Chief Water Engineer of his rights under a wayleave in private land is subject to the conditions of section 10(4).

(3) The Chief Water Engineer shall give not less than 48 hours written notice of its intention to exercise his rights under the wayleave in, on, through, over or under private land or, in the case of an emergency, as much notice as is reasonably practicable in the circumstances, to the owner of the private land.

(4) In exercising his rights under section 10(1), the Chief Water Engineer shall—

- (a) within a reasonable time, proceed to complete the placement, maintenance, repair, alteration, removal, replacement, inspection, adjustment or testing of the waterworks;
- (b) do as little damage as possible to the private land or anything on the private land;
- (c) within a reasonable time, reinstate the private land to the reasonable satisfaction of the owner or pay compensation for its failure to do so;
- (d) until the private land is reinstated, erect and maintain warning signs and devices, including lights or flares, to give users of the private land reasonable notice that the land is broken up or excavated or its use is temporarily interfered with;
- (e) be responsible for remedying any defect in the reinstatement of the private land, including any subsidence, for a period of 3 months after completion of the reinstatement, or for paying compensation for its failure to do so; and
- (f) take reasonable care not to damage—
 - (i) the installations of any other public utility or operator, or
 - (ii) the installations of persons authorised by the owner to be placed,

in, on, through, under or over the private land and shall, within a reasonable time, rectify any damage caused to any such installations.

(5) Where the Chief Water Engineer fails to rectify any damage caused in exercising the rights of entry under section 10(1) the Department shall pay compensation to rectify such damage.

Adverse effect of waterworks on value or utility of land

12. When waterworks of the Department placed in, on, under, through or over a private road or private land have a substantial adverse effect on the value or utility of the land, the Chief Water Engineer shall, on request in writing by the owner of the land, do one or more of the following—

- (a) at the expense of the Department—
 - (i) remove the waterworks or part of the waterworks,
 - (ii) move the waterworks or part of the waterworks to another location on the land where it does not have a substantial adverse effect on the value or utility of the land, or
 - (iii) alter the waterworks or part of the waterworks so as to eliminate or mitigate such substantial adverse effect; and
- (b) make arrangements with the Department to pay compensation.

Malicious interference with rights or powers of the Chief Water Engineer

13. Where a person wilfully or maliciously places or permits another person to place on any land anything that obstructs, hinders or interferes with the exercise by the Chief Water Engineer of any of his rights or powers under this Act, the Chief Water Engineer may remove the thing in question at the cost of the person who placed the thing or permitted the thing to be placed on the land, and the Chief Engineer shall not be required to reinstate the land or pay compensation for any damage caused by the removal.

Immunity from distress, etc. of waterworks on private premises

14. All waterworks of the Department in, on, under, through or over private land—

- (a) are and remain the property of the Government;
- (b) are not fixtures in relation to the land; and
- (c) are not liable—
 - (i) to distress, seizure, attachment or execution under any process of any court or otherwise, or
 - (ii) to proceedings in insolvency, bankruptcy, liquidation, receivership or otherwise, against the person in whose name the land is registered.

PART 5

SUPPLY OF WATER SERVICE

Service connections

15. (1) The Chief Water Engineer may, but is not obliged to—

- (a) extend a service connection beyond a point just inside the property line of the premises of the customer; or
- (b) make separate service connections to units on the premises.

(2) The Chief Water Engineer is responsible for maintaining every service connection in good repair.

(3) When a customer makes an application for water service to premises that require the Chief Water Engineer to provide a service connection in any of the circumstances referred to in subsection (1), the Chief Water Engineer shall, subject to subsection (4), require the customer to pay in advance the expenses to be incurred in making the service connection.

(4) The Chief Water Engineer shall within a reasonable time furnish to the customer a written statement of expenses to provide the service connection based on the costs of labour and materials to be supplied including a reasonable allowance for overhead, and the statement is conclusive as between the Department and the customer of the expenses to be incurred in making the service connection.

Liability for loss or damage to property as a result of interruption of water service

16. (1) The Department is not liable for loss or damage to property, for injury or death or for economic loss to persons by reason of the failure to supply water service, the cessation of water service or insufficiency of water service if or to the extent that such loss or damage to property, such injury or death or such economic loss is the result of circumstances not within the Department's control including, without limitation—

- (a) neglect or failure of a person obliged by contract to supply water to the Department to supply that water;
- (b) defects in equipment or materials supplied to the Department that a reasonable inspection would not have revealed;
- (c) hurricane, flood or other act of God;
- (d) epidemic; and
- (e) war, hostilities, actual or apprehended, acts of violence, civil disorder or labour or industrial action by employees of the Department;

unless the loss or damage to property, injury or death or the economic loss was the result of the negligence of the Department or its servants or agents, but the total liability of the Department and its servants and agents—

- (i) for any one claim, shall not exceed \$10,000; and

(ii) for all claims arising from an incident, shall not exceed \$100,000.

(2) Where the sum of the claims exceed \$100,000, the claims shall be prorated.

Charges, terms and conditions of water service and special agreements

17. (1) Except as provided in subsection (6) and subject to the approval of the Executive Council, the Department—

(a) shall supply water service to customers or classes of customers in accordance with the tariff of charges for water service fixed by the Department by reference to such criteria; and

(b) may adopt such system for the calculation of the amount of such charges as appears to the Department to be appropriate.

(2) In subsection (1), charges for water service include—

(a) water service provided at no charge or at a reduced charge, or both, under a programme to provide a subsidy to publicly assisted persons; and

(b) the flat rate charge for water service referred to in section 22(3).

(3) A customer is liable to pay the charges for water service to his or her premises until 7 days after the customer has given written notice or causes written notice to be given to the Department that the water service to the premises is to be disconnected.

(4) If the customer does not give written notice or cause written notice to be given under subsection (3), the customer continues to be liable to pay the charges for water service until—

(a) the water service is disconnected for non-payment; or

(b) the date on which a subsequent customer applies for water service to the premises, whichever occurs first.

(5) A notice to the effect that the customer remains liable under subsections (3) and (4) shall be endorsed on or accompany every water bill issued by the Department, but no water bill is invalid by reason only of the fact that the notice is not endorsed on, or does not accompany, the water bill.

(6) The Department may enter into a special agreement with a customer for water service and, when it does so, the charge for water service to the customer and the terms and conditions of water service shall be as set out in the special agreement.

(7) Until the Executive Council has approved charges as authorised under this Act, the present authorised charges and the method of assessment and payment shall continue in full force and effect.

Charges associated with water service that Department may impose

18. Subject to the approval of the Executive Council, the Department may impose charges associated with water service for such services as—

- (a) the reconnection of water to the customer's premises;
- (b) the relocation of a water meter at the customer's request; or
- (c) the testing of a water meter at the customer's request.

When a water bill is due and payable; interest on late payment

19. (1) The Department shall issue water bills on the basis of a monthly billing period.

(2) The date the water bill is printed shall be printed on the bill and identified as the billing date.

(3) A water bill is due and payable not later than 30 days after the billing date.

(4) The Department may charge interest on late payment of charges for water service at the rate approved by the Executive Council.

(5) When payment is made in respect of charges for water service and accrued interest, the payment shall be applied first in payment of the interest and thereafter in payment of the charges for water service.

Disconnection in default of payment of charges for water service and interest

20. (1) When a water bill for premises is unpaid 30 days after the billing date, the Chief Water Engineer may—

- (a) disconnect the water service to those premises; and
- (b) refuse to reconnect the water service to those premises until—
 - (i) the arrears in respect of payment of charges for water service and accrued interest and the reconnection charge imposed in accordance with section 18 are paid, or
 - (ii) the customer pays the reconnection charge imposed in accordance with section 17 and makes—
 - (A) a payment on account of the arrears in respect of the charges for water service and accrued interest, and
 - (B) an agreement with the Department for the payment by instalments of the balance of the arrears and accrued interest.

(2) If the customer defaults on an agreement with the Department for the payment by instalments of arrears and accrued interest in respect of charges for water service, the Department may, without further notice, exercise its rights under subsection (1) as if no agreement had been entered into and may do so each time the customer defaults.

Refusal to connect customer in default in respect of other premises

21. (1) The Chief Water Engineer may refuse to connect the water service to premises in respect of which the customer is not in arrears as regards water service and accrued interest if the customer is in arrears in respect of other premises until—

- (a) the arrears in respect of payment of charges for water service and accrued interest and the reconnection charge imposed in accordance with section 18 in respect of the other premises are paid; or
- (b) the customer pays the reconnection charge imposed in accordance with section 18 and makes—
 - (i) a payment on account of the arrears in respect of charges for water service and accrued interest in respect of the other premises, and
 - (ii) an agreement with the Department for the payment by instalments of the balance of the arrears and accrued interest in respect of the other premises.

(2) If the customer defaults on the agreement with the Department for payment by instalments of the arrears in respect of charges for water service and accrued interest, the water bill of the customer in respect of the premises connected under subsection (1) is deemed to be unpaid for 30 days after the billing date and section 20 applies in respect of such premises.

Water consumption to be measured by water meter

22. (1) Subject to subsection (3), sections 23(4) and 24, the Chief Water Engineer shall measure the consumption of water by a customer by means of a water meter.

(2) The Chief Water Engineer shall keep the water meters used in measuring the consumption of water in proper working condition for accurately recording consumption within the limits of error for which the water meters are designed.

(3) When the Chief Water Engineer does not have a water meter, or a water meter of the appropriate type, to measure the consumption of water by a customer, the Chief Water Engineer may charge the flat rate charge for water service applicable to the customer until the water meter is installed.

Testing of water meters

23. (1) The Chief Water Engineer shall provide and maintain in proper working condition the equipment necessary for testing water meters.

(2) The Chief Water Engineer—

- (a) may test a water meter on a customer's premises and he may, for that purpose, use any equipment that he considers appropriate; or
- (b) may remove the water meter for testing and replace it with another.

(3) When a customer requests the Chief Water Engineer to test a water meter and pays the testing charge imposed in accordance with section 18, the Chief Water Engineer shall without unreasonable delay test the water meter—

(a) against a properly calibrated water meter; or

(b) by using equipment designed to measure the consumption of water,

and give a written report of the results of the test to the customer.

(4) If the report shows the water meter is registering outside the limits of error for which the water meter is designed—

(a) and in excess of what it ought to have registered, the Chief Water Engineer shall replace the water meter, refund the testing charge and make an allowance to the customer in respect of the excess amount of water registered; or

(b) and below what it ought to have registered, the Chief Water Engineer shall replace the water meter and may surcharge the customer in respect of the insufficient amount of water registered.

(5) In the absence of evidence to the contrary, the water meter is deemed to have registered erroneously—

(a) for 3 months before it was tested; or

(b) from the day it was last replaced;

whichever is the shorter, and to have done so until the day the water meter is replaced.

Measurement of consumption when unable to gain access to read water meter

24. (1) When the Chief Water Engineer is unable to gain access to the premises of a customer to read the water meter, the Chief Water Engineer may, for each billing period during which it is unable to gain such access, bill the customer for the highest consumption in any of the 6 billing periods before the billing period when it was unable to gain access.

(2) When the Chief Water Engineer obtains a reading of the water meter, it shall without delay adjust the amount charged so as to reflect the actual water consumption of the customer on the premises on the assumption that the consumption of water during the period during which it was unable to gain access to the premises was uniform.

Customer's request to relocate service connection

25. (1) Where a customer wishes to relocate a service connection, he shall—

(a) make an application to the Chief Water Engineer in a form provided by the Department; and

(b) pay the of the charge for relocating the service connection and costs referred to in subsection (3).

(2) The Chief Water Engineer shall, within a reasonable time of the application being processed, relocate the service connection of the customer.

(3) The Chief Water Engineer shall within a reasonable time furnish to the customer a written statement of costs of relocating the service connection based on the costs of labour and materials to be supplied including a reasonable allowance for overhead, and the statement is conclusive as between the Department and the customer of the cost of relocating the service connection.

PART 6

OFFENCES

Illegal connections and works related to illegal connections

26. (1) No person, other than the Chief Water Engineer or a person acting with the authority of the Engineer, proof of which lies upon him or her, shall—

- (a) connect or cause a connection to be made, directly or indirectly, into the waterworks of the Department for the purpose of taking or receiving water from the waterworks of the Department; or
- (b) excavate, place pipe, or do any other thing, in, on, through, under or over a public road or private road or adjacent to a public road or private road or in, on, through, under or over private land where there are waterworks of the Department with the intention of connecting into the waterworks of the Department.

(2) The Chief Water Engineer may—

- (a) disconnect a connection made contrary to subsection (1)(a); and
- (b) remove a pipe or other thing placed contrary to subsection (1)(b) or do anything necessary to remedy the contravention referred to in that subsection.

(3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of \$2,000 or to imprisonment for a term of 3 months, and the Court may, in addition to convicting the person, make an order—

- (a) for the payment by the person of the costs incurred by the Chief Water Engineer in the exercise of his powers under subsection (2); and
- (b) prohibiting the person from connecting or excavating, placing pipe or doing any other thing, in, on, through, under or over a public road or private road or adjacent to a public road or private road or in, on, through, under or over private land with the intention of connecting into the waterworks of the Department.

Unlawful abstraction or consumption of unlawfully abstracted water

27. (1) No person shall, knowingly and without legal right, proof of which lies upon him or her—

- (a) abstract water or cause any water to be abstracted from the waterworks of the Department; or
- (b) consume or use any water that has been unlawfully abstracted from the waterworks of the Department.

(2) In subsection (1), “abstract”, in relation to a standpipe, includes diverting water from a standpipe by attaching a hose or other device for the purpose of conveying the water to premises other than those where the standpipe is located.

(3) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$2,000 or to imprisonment for a term of 3 months, and the Court may, in addition to convicting the person, determine the amount owing by the person to the Department by reason of the abstraction, consumption or use of the water and order him or her to pay it.

Wilful contamination, etc. of potable water supply

28. (1) No person shall recklessly, wilfully or negligently—

- (a) cause or suffer any pipe or other apparatus or receptacle belonging to or connected with the waterworks of the Department to be used in such a way that the water supplied to that person is or is likely to be contaminated, or
- (b) commit any act which, by itself or with other acts, impedes or interrupts or is calculated to impede or interrupt the flow of water belonging to the waterworks.

(2) No person shall use the potable water supply or the water system for any purpose that jeopardises or is likely to jeopardise the public health or alter the chemical or bacteriological balance of the water.

(3) A person who contravenes subsection (1) or (2) is guilty of an offence and is liable on summary conviction for each offence to a fine of \$3,000 or to imprisonment for a term of 6 months or to both.

(4) In the event any damage should result to the waterworks from the commission of any of the offences mentioned in this section, the Magistrate may, in addition to any punishment he or she may impose, order the offender to pay compensation to the Department for such damage.

Damage to water meters and illegal reconnection of water service

29. (1) No person shall—

- (a) wilfully or recklessly tamper with, disconnect, bypass, damage or remove a water meter belonging to the Department or permit any person to tamper with, disconnect, bypass, damage or remove, a water meter belonging to the Department; or

- (b) except under the written authority of the Department, proof of which lies upon him or her, reconnect to the waterworks of the Department a water service that has been disconnected.

(2) The Chief Water Engineer may, without notice, disconnect a reconnection made contrary to subsection (1)(b).

(3) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$2,000 or to imprisonment for a term of 3 months, and the Court may, in addition to convicting the person, make an order for the payment by the person of compensation to the Department for its loss by reason of—

- (a) the tampering, disconnecting, bypassing, damaging or removing of the water meter; or
- (b) the reconnection of the water service.

Disconnecting, damaging, etc. of waterworks

30. (1) No person shall—

- (a) maliciously tamper with, disconnect or damage the waterworks belonging to the Department with the intent of cutting off water service;
- (b) wilfully or recklessly damage any waterworks belonging to the Department; or
- (c) without the authority of the Department, proof of which lies upon him or her, remove or disconnect any waterworks belonging to the Department.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction—

- (a) in the case of subsection (1)(a), to a fine of \$2,000 or to imprisonment for a term of 6 months; and
- (b) in the case of subsection (1)(b) or (c), to a fine of \$2,000 or to imprisonment for a term of 3 months,

and the Court may, in addition to convicting the person, make an order for the payment by the person of compensation to the Department for its loss by reason of the tampering, damage, removal or disconnection.

Obstruction, etc. of the Chief Water Engineer

31. (1) No person shall intentionally or recklessly obstruct, molest, hinder or interfere with the Chief Water Engineer or any person authorised by him, or with any person who is reasonably required by that authorised person to assist him, in the carrying out of a responsibility or the exercise of a power under this Act.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$2,000.

Prohibitions respecting water from standpipes

32. (1) No person shall—

- (a) allow water from a standpipe to run to waste; or
- (b) use water from a standpipe to bathe or to wash clothes or an animal, vehicle or other thing at or near the standpipe.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$1,000.

PART 7**REGULATIONS, REPEAL AND TRANSITIONAL PROVISIONS****Regulations**

33. The Executive Council may make regulations for the better carrying out of this Act, including regulations—

- (a) prescribing anything that under this Act may be prescribed;
- (b) exempting persons or operations, or classes of persons or operations, for the purpose of the definition of piped water;
- (c) prohibiting and regulating the resale of water supplied to a customer by the Department;
- (d) respecting the giving of notices for which no provision is made under this Act;
- (e) respecting the giving of notices, other than notices of request, under any or all the provisions of this Act;
- (f) providing that a fine of not more than \$2,000 be imposed for a contravention of a provision of the regulations, and for the making of orders against a convicted person by the Court for the purpose of preventing further contraventions in addition to convicting him or her.

Citation and commencement

34. This Act may be cited as the Department of Water Services Act, 2024 and shall come into force on a date the Governor appoints by Notice in the *Gazette*.

Savings

35. The regulations made under the Water Corporation Act, now repealed by this Act and in force immediately before the coming into force of this Act, so far as it is not inconsistent with the provisions of this Act, continues in force as if made under this Act.

Repeal

36. The Water Corporation Act is repealed.

Transitional provisions: regulations

37. Notwithstanding sections 38 to 40 Executive Council may make regulations providing for any transitional matter not dealt with or not sufficiently dealt with by this Act.

Transitional provisions: employees of the Corporation

38. On the commencement of this Act, a person who is employed by the Corporation immediately before such commencement shall be deemed to be a public officer within the meaning of section 73 of the Anguilla Constitution Order 1982, and such officers shall be subject to General Orders and the Public Service Commission Regulations.

Transitional provisions: rates, terms and conditions of water service and charges

39. (1) After the coming into force of this Act, the Department may—

- (a) continue to charge the same rates, interests and other charges imposed; and
- (b) provide water services on the same terms and conditions of service offered;

by the Corporation and which were in place immediately before this Act came into force.

(2) The Department assumes all the rights and responsibilities that the Corporation had in relation to its customers immediately before the coming into force of this Act and those rights and responsibilities shall be exercised by the Department, with the necessary modifications, as if made or incurred under this Act.

(3) The Department shall, to the satisfaction of the Minister of Finance, do an accounting of the money owed to and by the Corporation on the coming into force of this Act.

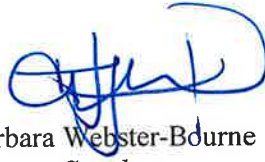
(4) A contract or arrangement between the Corporation and a person for the supply of water at a special rate and on special terms and conditions that is in existence immediately before the coming into force of this Act is binding on the Department.

Transitional provisions: lease of land, vesting of personal property and assignment of contracts

40. (1) On the coming into force of this Act—

- (a) any lease between the Government and the Corporation for the land associated with the operations of the Corporation is terminated and the land vests in the Government;
- (b) the personal property of the Corporation associated with the operations of the Water Corporation vests in the Government; and
- (c) the contracts for the supply of goods and services in relation to the Corporation are assigned to the Government and shall be enforceable as fully and effectually as if the Government had been a party to the contract instead of the Corporation.

(2) The Department shall, as soon as possible after the coming into force of this Act, prepare an inventory of personal property and contracts referred to in subsections (1)(b) and (c) and, when it is published in the *Gazette*, it is conclusive evidence of the effect of those subsections.



Barbara Webster-Bourne
Speaker

Passed by the House of Assembly this 26th day of March, 2024



Lenox J. Proctor
Clerk of the House of Assembly

OBJECTS AND REASONS

(These objects and reasons do not form part of the Bill)

The purpose of the Bill for the Department of Water Services Act is to transfer the management and operation of the piped water system in the statutory corporation called the Water Corporation of Anguilla to the Department of Water Services; the government department housed under the Ministry responsible for waterworks.

Part 1 sets out the definitions used in the Bill.

Part 2 (comprising sections 2 to 5) deals with the dissolution of the Water Corporation and transfers the regulation, distribution and supply of water to the Department of Water Services - the government department housed under the Ministry responsible for waterworks.

Section 3 provides for the vesting in the Ministry of all wayleaves, easements and other rights in relation to water on land that are held by the Corporation.

Section 4 provides that it is an offence for anyone other than the Department to supply water by pipe to the public.

Section 5 outlines the general powers and functions of the Chief Water Engineer under the Act.

Parts 3 and Part 4 (comprising sections 6 to 14) deals with the various rights and responsibilities of the Department.

Sections 6 and 7 deal with the Department's rights of entry onto private roads and private land.

Sections 8 and 9 deal with the acquisition of wayleaves in private roads and the exercise of rights under those wayleaves.

Sections 10 and 11 deal with the acquisition of wayleaves in private lands and the exercise of rights under those wayleave.

Section 12 provides for a remedy for the situation that occur when waterworks on a private road or land have a substantial adverse effect on the value of utility of the land.

Section 13 provides that the Department is not liable to pay compensation for damage caused by its removal of a thing willfully or maliciously placed or caused to be placed by a person so as to obstruct, hinder or interfere with the exercise by the Department of its rights or powers.

Section 14 provides for immunity of service connections and other waterworks from seizure and other proceedings that affect that affect the owner of land on which those connections or waterworks are located.

Part 5 (comprising sections 15 to 25) deals with the supply of water service from the water mains of the Department to the premises of the customers

Part 6 a number of offence provisions follow—

- section 26 (illegal connections and works related to illegal connections)
- section 27 (Unlawful abstraction or consumption of unlawfully abstracted water)
- section 28 (Wilful contamination, etc. of potable water supply)
- section 29 (Damage to water meters and illegal reconnection of water service)
- section 30 (Disconnecting, damaging, etc. waterworks)
- section 31 (Obstruction, etc. of the Chief Water Engineer or any person authorised by him)
- section 32 (Prohibitions respecting water from standpipes).

Part 7 deals with regulations, citation, commencement, savings, repeal, and transitional provisions.

- Section 33 gives the power to Executive Council to make regulations.
- Section 34 deals with the citation and commencement of the Act.
- Section 35 deals with the savings of the Regulations
- Section 36 repeals the Water Corporation of Anguilla Act.

A number of transitional provisions follow—

- Section 37 provides that Executive Council is given the power to make regulations on transitional matters.
- Section 38 deals with employees of the Corporation. This section provides that a person who is employed by the Corporation immediately before the commencement of this Act shall be deemed to be a public officer within the meaning of section 73 of the Anguilla Constitution Order 1982.
- Section 39 provides that the rates for water service and the terms and conditions of service and charges imposed by the Corporation immediately before the coming into force of this Act and the interest rate charged on late accounts immediately before the coming into force of this Act remain in force until changed by the Department of Water Services.
- The Department is the successor to the rights of the Corporation (section 39(2)).
- Agreements and arrangements entered into by the Corporation before the Act comes into force are grandfathered (section 39(4)).
- Section 40(1)(a) deals with the transfer of a leasehold interest in the land occupied by the Water Corporation to the Department.
- Section 40(1)(b) deals with the vesting in the Government of the personal property of the Water Corporation associated with the operations of the Corporation.
- Section 40(1)(c) the assignment of certain contracts of the Corporation to the Government are provided for; and
- Section 40(2) provides for the preparation of an inventory of the personal property and contracts above-mentioned (section 39).