

GOVERNMENT OF ZAMBIA

ACT

No. 10 of 2005

Date of Assent: 25th April, 2005

An Act to amend the Water Supply and Sanitation Act.

[17th May, 2005

ENACTED by the Parliament of Zambia

Enactment

1. This Act may be cited as the Water Supply and Sanitation (Amendment) Act, 2005, and shall be read as one with the Water Supply and Sanitation Act, 1997, in this Act referred to as the principal Act.

Short title

Act No. 28 of
1997

2. Section *eleven* of the principal Act is amended by the insertion after subsection (2) of the following new subsections:

Amendment
of section 11

(3) Any person, utility or service provider who contravenes subsection (1) commits an offence and shall be liable, upon conviction, to a fine not exceeding thirty thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

(4) Where —

(a) a utility; or

(b) a service provider which is a local authority or a corporation;

contravenes subsection (1) every person who is a director of the utility or service provider or who is concerned with the management of the utility or service provider shall be deemed to have committed the same offence and shall be liable, upon conviction, to a fine not exceeding thirty thousand penalty units or to imprisonment for a term not exceeding three years, or to both:

Provided that where a director or person concerned in the management of the utility or service provider can show—

- (a) that the act constituting the offence was done without the director's or person's knowledge; or
- (b) that the director or person took reasonable steps to prevent the offence from being committed;

that director or person shall not be liable for the offence.

Amendment
of section 15

3. Section *fifteen* of the principal Act is amended by —

- (a) the renumbering of the paragraph in section *fifteen* as subsection (1); and
- (b) the insertion immediately after subsection (1) of the following new subsections:

(2) Where an appeal is made under subsection (1) the Minister may give such directions to the Council as the Minister considers necessary to enable the Minister to determine the appeal.

(3) The Minister shall determine any appeal made under subsection (1) within forty-five days from the date on which the appeal is lodged.

(4) The Minister in determining the appeal may confirm, vary or set aside the decision of the Council.

Amendment
of section 18

4. Section *eighteen* of the principal Act is amended by the insertion immediately after subsection (2) of the following new subsections:

(3) Any person, utility or service provider who contravenes subsection (1) commits an offence and shall be liable, upon conviction, to a fine not exceeding thirty thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

(4) Where —

- (a) a utility; or
- (b) a service provider which is a local authority or a corporation;

contravenes subsection (1) every person who is a director of the utility or service provider or who is concerned with the management of the utility or service provider shall be deemed to have committed the same offence and shall be liable, upon conviction, to a fine not exceeding thirty thousand penalty units or to imprisonment for a term not exceeding three years, or to both:

Provided that where a director or person concerned in the management of the utility or service provider can show—

- (a) that the act constituting the offence was done without the director's or person's knowledge; or
- (b) that the director or person took reasonable steps to prevent the offence from being committed;

that director or person shall not be liable for the offence.

5. Section *twenty-one* of the principal Act is amended by the insertion immediately after subsection (10) of the following new subsections: Amendment of section 21

(11) Where an appeal is made under subsection (10) the Minister may give such directions to the Council as the Minister considers necessary to enable the Minister to determine the appeal.

(12) The Minister shall determine any appeal made under subsection (10) within forty-five days from the date on which the appeal is lodged.

(13) The Minister in determining the appeal may confirm, vary or set aside the decision of the Council.

6. Section *thirty-one* of the principal Act is amended by the deletion of subsection (2) and the substitution therefor of the following: Amendment of section 31

(2) Any person who contravenes—

(a) paragraph (a) of subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding one hundred thousand penalty units, or to imprisonment for a term not exceeding five years, or to both; or

(b) paragraph (b), (c) and (d) of subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding twenty thousand penalty units, or to imprisonment for a term not exceeding three years, or to both.

7. Section *thirty-four* of the principal Act is amended in subsection (4) by the deletion of the words " five thousand penalty units " after the words " not exceeding " and the substitution therefor of the words " ten thousand penalty units ". Amendment of section 34

Amendment of section 38 8. Section *thirty-eight* of the principal Act is amended by the deletion of the words “ six thousand penalty units ” after the words “ not exceeding ” and the substitution therefor of the words “ ten thousand penalty units ”.

Amendment of Schedule 9. The Schedule to the principal Act is amended —
(a) in paragraph 2 —

(i) by the deletion of subparagraph (1), and the substitution therefor of the following:

(1) The Council shall consist of the following part-time members appointed by the Minister:

- (a) a representative of the Consumer Protective Association of Zambia;
- (b) a representative of the Zambia Chambers of Commerce and Industry;
- (c) a representative of an association whose membership consists of water sector professionals;
- (d) a representative of a private sector institution concerned with public health;
- (e) a representative of the Ministry responsible for water resources;
- (f) a representative of the Ministry responsible for local government and housing; and
- (g) a representative of the Attorney-General.

(ii) by the insertion immediately after subparagraph (1) of the following new subparagraph:

(2) A person shall not be appointed as a member of the Council if the person —

- (a) is a director or board member of a utility or service provider; or
- (b) is concerned with the management of a utility or service provider; and

(iii) by the renumbering of subparagraphs (2), (3), and (4) as subparagraphs (3), (4), and (5) respectively; and

(b) in subparagraph (4) of paragraph 4 by the deletion of the words “ seven members ” and the substitution therefor of the words “ four members ”.
