

**LICENSING MANUAL
FOR WATER AND SEWERAGE
SUPPLY SERVICES IN THE
NORTHERN TERRITORY**

DECEMBER 2001
Version 1.2



Level 9, 38 Cavenagh Street Darwin NT 0800

GPO Box 915, Darwin NT 0801

Email: utilities.commission@nt.gov.au

Disclaimer

The Water and Sewerage Supply Services Licensing Manual (“the Manual”) has been prepared by the Commission to assist persons carrying on operations in the Northern Territory water and sewerage industry, or who might wish to carry on such operations, to consider whether they need to hold a licence.

The Manual is based on the Water Supply and Sewerage Services Act 2000 (“the Act”). If the legislation or other material underlying the Manual is amended, the right to amend the Manual is reserved.

The information contained in the Manual is provided for the purposes of guidance only, and not intended to be an exhaustive statement of the law, policies and procedures applicable to the licensing of operations in the water and sewerage supply services industries.

Nothing in this document should be taken as:

- a substitute for independent professional advice, nor should it be used as a substitute for an examination of the source material used in its preparation; or
- a recommendation in connection with commencing, or continuing to carry on, operations in the Northern Territory water and sewerage supply services industries.

None of the Commission, the Northern Territory or any of their respective officers, employees and advisers is liable to reimburse or compensate any person for any costs or expenses incurred by that other person in evaluating or acting upon the Manual, submitting a provisional application or formal application contemplated by the Manual, or otherwise in connection with the grant, or failure to grant, of a licence to carry on operations in the Northern Territory water and sewerage supply services industries.

Version information

Each version of the Manual published by the Commission will be identified by a version number and date of issue. Version 1.1 of the Manual became effective on 27 July 2001. Version 1.2 of the Manual became effective on 07 December 2001.

Inquiries

Any questions regarding this report should be directed in the first instance to the Executive Officer by the following:

Utilities Commission
GPO Box 915
DARWIN NT 0801

Telephone: (08) 8999 5480
Fax:(08) 8999 6262
Email: utilities.commission@nt.gov.au

Table of Contents

1. Background	3
Introduction	3
Transitional arrangements	3
Exemptions	4
2. Licensing arrangements	5
Obligation to be licensed	5
Types of licences	5
Duties and powers conferred by licence	5
Authorised connections	6
Limited liability	6
Term of licence	6
Annual licence fees	7
3. Role of the commission	9
Guiding principles	9
Licensing functions	9
<i>Granting licences</i>	9
<i>Specifying licence conditions</i>	9
<i>Register of licences</i>	10
<i>Compliance monitoring</i>	10
<i>Varying licence conditions</i>	10
4. Applying for a licence	11
Applications and fees	11
Consideration of application	11
Notice of licence decisions	12
5. Specifying licence conditions	13
Types of conditions	13
Statutory conditions	13
Other conditions	14
6. Information requirements	15
General	15
Contact details	15
Licence types required	15
Licensee details	15
Nature of industry participation	16
Technical capacity	16
Financial viability	17
Licence conditions	17
Exemptions	17
Commercially sensitive information	17
7. Review of decisions and appeals	19
Review of decisions	19
Appeals	20
APPENDIX	21

Definitions

“Act”	means the <i>Water Supply and Sewerage Services Act 2000</i>
“Applicant”	means a person who has made application for a licence under Part 2 of the Act or exemption from the requirement to hold a licence under Part 2 of the Act
“Chief Health Officer”	means the Chief Health Officer appointed under the <i>Public Health Act 1997</i>
“Commission”	means the Utilities Commission of the Northern Territory established pursuant to section 5 of the <i>Utilities Commission Act 2000</i>
“Connection Code”	means the code for connections, upgrade of connections and acceptance of increased loads required to be published by the licensee under section 52 of the Act
“Person”	means any person, natural or corporate or any entity
“Regulatory Minister”	means the Minister of the Northern Territory Government who is responsible for the Act, in so far as it relates to economic regulation.

CHAPTER**1****BACKGROUND****Introduction**

1.1 This chapter discusses a range of issues which, while not specifically dealt with in the Manual, may be relevant in considering whether a licence is required for the provision of water or sewerage supply services. If a licence is required, this chapter discusses what the other matters may need to be addressed to commence operations.

1.2 The first step, prior to licensing, is the declaration by the Minister, by way of a notice in the Gazette, of a water or sewerage supply licence area pursuant to sections 8 and 9 of the *Water Supply and Sewerage Services Act (2000)* (“the Act”). The water and sewerage supply licence areas are capable of being varied by the Minister, or by a person making an application to the Minister under sections 11 and 12 of the Act.

1.3 Pursuant to the implementation of the Government’s sole-supplier model, section 13 of the Act allows the Commission to issue only one licence to carry on water or sewerage supply services in each water or sewerage supply licence area.

1.4 The Commission is not empowered to issue licences for service provision that takes place outside a water or sewerage licence area.

Transitional arrangements

1.5 The Act came into effect on 1 January 2001 and includes arrangements for a twelve-month transitional period.

1.6 Section 120 of the Act provides:

(2) “...if, immediately before the commencement of this Act, a person was providing a water supply service or sewerage service to the owner of land in the Territory, the person may continue to provide the service after commencement as if the Act had not commenced.”

(4) “On commencement of this Act, the Authority is to be taken to have been granted a licence in respect of each area that under section 10 of the Repealed Act had been declared to be a water district or sewerage district.”

Subsection (2) above means that parties other than PAWA, who were supplying water or sewerage services before the commencement of the Act, may be taken to have been granted a transitional licence. Subsection (4) means that PAWA may also be taken to have been granted a transitional licence under the Act.

The provisional arrangements under section 120 above cease to apply –

- if the person is granted a licence (or an exemption from the need to hold a licence) under the Act; or
- 12 months after the commencement of the Act,

whichever occurs first.

1.7 Notwithstanding that parties currently supplying water or sewerage services are taken to have been granted a transitional licence under the Act, these licences expire on 1 January 2002. Suppliers therefore need to make an application to the Commission for the issue of an ongoing licence under Part 2 of the Act. The Commission remains available to clarify the transitional arrangements, but the focus of the Manual is on Part 2 licensing arrangements.

Exemptions

1.8 Section 26 of the Act provides that, with the approval of the Minister, the Commission may grant an exemption from some or all of the requirements of the Act, including the requirement for a person providing water or sewerage supply services to be licensed.

1.9 An application for an exemption from the requirement to be licensed should be made to the Commission in a form similar to an application for a licence.

1.10 While any application for an exemption will be considered on its merits in line with the requirements of the Act, the Commission anticipates that few exemptions will be granted. The Commission has the ability to customise licence conditions, with the Minister's approval, to suit and sufficiently accommodate for most water or sewerage supply situations in the Territory. Moreover, the Commission considers that the attraction of a person to seek an exemption from the requirement to hold a licence will be minimal. This reasoning is based on the Commission's understanding that the licensing arrangements should not disturb the current service provision in areas such as remote operations, and that the Commission has the ability to tailor licence fees to recognise the administrative burden involved in the licensing regime. However, the Commission does recognise that transitional arrangements under the Act may give rise to some ambiguities and is therefore prepared to consider an application for exemption under section 26 or section 120(6) of the Act, as the case may require. The Commission notes that section 120(6) is only a viable option until the expiry of the transitional arrangements on 1 January 2002.

1.11 The focus of the Manual is on applications for licences for the provision of water or sewerage supply services in the Territory, and only indirectly deals with the issuing of exemptions from the requirement to hold a licence. Further guidance regarding the issuing of exemptions under section 26 can be obtained from the Commission.

CHAPTER**2****LICENSING ARRANGEMENTS****Obligation to be licensed**

2.1 Section 14 of the Act provides that a person must not carry on water or sewerage supply services in a relevant licence area unless that person holds a licence authorising the relevant services, or is otherwise exempted under section 26. A breach of this prohibition may attract a penalty of up to \$250,000.

2.2 Furthermore, section 24 of the Act gives the Commission the power, with the approval of the Minister, to suspend or cancel a licence if:

- the licensee obtained its licence improperly;
- the licensee contravened a material condition of the licence or any other requirement imposed by or under the Act or any other Act in connection with the operations authorised by the licence;
- the licensee has ceased to carry on operations authorised by the licence; or
- there has been any act of default or change of circumstances such that the licensee would no longer be entitled to be granted the licence.

2.3 The Commission does not consider the provision of water or sewerage supply services outside licence areas to be subject to the prohibition under section 14 of the Act.

Types of licences

2.4 A licence will be required for the provision of:

- water supply services; and
- sewerage supply services,

within an area gazetted under the Act as a water or sewerage supply licence area.

2.5 For each water or sewerage supply service within a gazetted water or sewerage supply licence area, a person will be granted a single licence for each of the relevant services provided.

Duties and powers conferred by licence

2.6 Section 41 of the Act provides that:

- a licence authorises the licensee to provide water supply or sewerage services in accordance with the terms and conditions of the licence; and
- a licensee must provide water supply or sewerage services to customers who own land with an authorised connection to the water supply or sewerage

services infrastructure of the licensee (note the limitations on the obligation to supply in section 44 of the Act).

2.7 The Commission's interpretation of section 41 is that it includes, in relation to the licensee:

- retailing water or sewerage supply services to customers, in respect of premises located in a water or sewerage supply licence area; and
- operating and maintaining water supply and sewerage services infrastructure and distribution infrastructure within an area gazetted as a water or sewerage supply licence area.

Authorised connections

2.8 Section 52 of the Act requires that the licensee publish a Connections Code no later than twelve months after being granted a licence.

2.9 To date, no Connections Code has been published. In the interim, the Commission has defined authorised connection in the water and sewerage supply services licences as meaning 'a water or sewerage supply connection that the licensee is authorised to connect to a customer within a water or sewerage supply licence area.' Until such time as a Connections Code is published, arrangements in place prior to the commencement of the Act will remain in place.

Limited liability

2.10 Section 114 of the Act provides that a person licensed to carry on water or sewerage supply services will not be liable for damages arising out of a partial or total failure to provide water or sewerage supply services to a customer, unless the failure is due to an act or omission done or made by the licensee in bad faith or through negligence. However, subsection (2) provides that a licensee may enter into an agreement with a person to vary or exclude the operation of section 114, and to the extent of the agreement, section 114 does not apply.

Term of licence

2.11 Section 18 of the Act provides that a licence may be granted for an indefinite period or for a term specified in the licence.

2.12 Applicants are invited to make submissions in relation to the length of the term for which they wish to be licensed. For the purposes of guidance, it is the expectation of the Commission that the length of the term of the licences will broadly correspond to about half of the average expected life of the assets involved in the related operations. This would typically see licences be issued for terms of 25 years.

2.13 Section 19 of the Act requires that all licensees granted a licence for two years or more are to lodge an annual return with the Commission before a date prescribed for that purpose. The annual return is to contain information required by the Commission by condition of the licence or by written notice. It is not expected at this time that the Commission would grant a licence for less than two years.

Annual licence fees

2.14 Section 19 of the Act provides that a person is not entitled to be granted a licence unless the person first pays the annual licence fee, or the first instalment of the annual licence fee, as the case may require.

2.15 The annual licence fee for a particular type of licence will be the fee fixed from time to time by the Minister. The fee is an amount that the Minister considers to be a reasonable contribution towards the costs of the administration of the Act.

2.16 Fees to apply for the twelve month period ending 30 June 2002, as approved by the Minister on 2 July 2001 are as follows:

Table 1 - Annual fees (payable by quarterly instalments)

Type of licence	\$ per annum
Water supply services:	
Large provider (supplying services in major urban centres and multiple rural and remote licence areas):	25,000
Small provider (supplying services in a single minor urban centre and/or a small number of rural and remote licence areas):	1,000
Sewerage services:	
Large provider (supplying services in major urban centres and multiple rural and remote licence areas):	20,000
Small provider (supplying services in a single minor urban centre and/or small number of rural and remote licence areas):	1,000

2.17 The annual fee component of all licences granted after commencement of a licence year will be apportioned on the basis of the formula:

$$\text{fee payable} = \text{full year fee multiplied by } Z/Y$$

where:

Z = the number of days remaining in the licence year for which the licence fee is payable; and

Y = the number of days in the licence year.

2.18 Where a licence commences within 90 days before the commencement of a licence year, the Commission may choose to calculate a single licence fee for the period until the end of the first full licence year. Any fee payable for a part of a licence year will be calculated in accordance with the formula above.

2.19 The initial licence period will run from 1 July 2001 to 30 June 2002 and thereafter continue to be on a financial year basis.

2.20 There will be no refund of fees available, whether in whole or in part in the event of a cancellation of a licence.

2.21 Only one fee amount per licence type will be payable each year by a licensed entity.

CHAPTER**3****ROLE OF THE COMMISSION****Guiding principles**

3.1 When performing its functions under the relevant legislation, the Commission must have regard to section 3 of the Act, which sets out the objects of the Act, as well as the general factors specified in section 6 of the *Utilities Commission Act 2000* (“the UCA”).

3.2 The objects of the Act are:

- to promote safe and efficient provision of water supply and sewerage services;
- to establish and enforce standards of service in water supply and sewerage services;
- to facilitate the provision of financially viable water supply and sewerage services; and
- to protect the interests of customers.

Licensing functions

3.3 Under the Act, the Commission has responsibility for a number of licensing and licensing related functions, notably:

- the granting of licences;
- specifying licence conditions;
- maintaining a register of licences issued;
- monitoring and enforcing licence conditions; and
- varying the terms or conditions applying to a licence.

Granting licences

3.4 The Commission may only issue a licence if satisfied that:

- the applicant is a suitable person to hold the licence; and
- certain nominated requirements are met in the case of each licence type.

The process of how to apply for a licence is detailed in chapter 4.

Specifying licence conditions

3.5 Section 42(1) of the Act provides that the Commission, on granting a licence, must make the licence subject to conditions approved by the Minister. With the approval of the Minister, the Commission may also make the licence subject to such other conditions as the Commission considers appropriate. The nature of the proposed licence conditions is detailed in chapter 5.

Register of licences

3.6 Section 25 of the Act requires that the Commission is to keep a register of the licences granted to licensed entities. The register is to include:

- the terms and conditions of each licence; and
- any other information required by the Regulations.

A copy of the register will be located on the Commission's web site (www.utilicom.nt.gov.au) to facilitate public inspection.

Compliance monitoring

3.7 The Commission is responsible for monitoring whether all licence conditions are being complied with and enforcing licence conditions. A contravention of the licence is a breach of the Act and may give rise to monetary penalties. Pursuant to section 24 of the Act, the Commission may, with the approval of the Minister, suspend or cancel a licence if a licensee is guilty of a material contravention of one or more of its licence conditions.

Varying licence conditions

3.8 Section 20 of the Act provides that the Commission may, with the approval of the Minister, vary licence conditions by written notice, as the Commission considers appropriate (but not so as to remove a mandatory statutory condition). A variation may be made only if the Minister considers it necessary to further the objects of the Act.

CHAPTER**4****APPLYING FOR A LICENCE****Applications and fees**

- 4.1 Section 15 of the Act provides that an application for a licence is to:
- be made to the Commission in a form approved by the Commission; and
 - contain the information specified in the form.

4.2 The Commission has not approved any paper ‘form’ as such for applications. The Manual details the Commission’s information requirements and provides some guidance in the manner in which an application should be presented.

4.3 The Commission will accept a single application in respect of both water and sewerage operations of an applicant. While the Commission will accept applications in this form, separate licences will be issued for each water supply services and sewerage services licence stated in paragraph 2.4 above.

4.4 The applicant must pay to the Commission an application fee fixed by the Minister. Application fees payable are in addition to the annual licence fees to be paid by licensed entities.

4.5 The application fee is to be the amount that the Minister considers appropriate to meet the reasonable costs of determining the application. The Minister has set application fees for the period through to 30 June 2002 at \$1,000 or \$500 for a renewal application fee. This fee will be payable in respect of each water supply and sewerage licences, regardless of whether or not applications are made separately or are aggregated into a single application document.

4.6 Finally, an applicant will be required to provide the Commission with any further relevant information that is requested by the Commission once the Commission has examined the application submitted.

Consideration of application

4.7 Pursuant to section 16 of the Act, the Commission may only issue a licence if satisfied that:

- the applicant is a suitable person to hold the licence; and
- the applicant will be able to meet the reasonably foreseeable obligations relating to providing water supply services or sewerage services.

4.8 In deciding whether an applicant is a suitable person to hold a licence, the Commission will be required to consider:

- the applicant’s previous commercial and other dealings and the standard of honesty and integrity shown in those dealings;
- the financial, technical and human resources available to the applicant;

- the officers and, if applicable, major shareholders of the applicant and their previous commercial and other dealings and the standard of honesty and integrity shown in those dealings (including breaches of statutory and other legal obligations); and
- other matters prescribed by the Regulations.¹

Notice of licence decisions

4.9 Section 22 of the Act requires the Commission to give an applicant for a licence written notice of the Commission's decision on the application.

¹The Commission notes that no 'other matters' have yet been described by the Regulations

CHAPTER**5****SPECIFYING LICENCE CONDITIONS****Types of conditions**

5.1 Section 42 of the Act provides that licences issued are to be subject to certain conditions specified in the Act and that the Commission also seek approval from the Minister.

5.2 A licensed entity must not contravene a condition of its licence. Pursuant to section 43 of the Act, the penalty for a breach of the licence is \$250,000. Section 43 of the Act also provides for recovery of any profits made from contravention of a licence condition and/or suspension or cancellation of the licence for a material contravention of a licence condition.

5.3 Licence conditions are of two broad types:

- ‘statutory conditions’, which are authorised either in whole or in part by the Act; and
- ‘other conditions’, which are not authorised directly or indirectly by the Act and are subject to approval by the Minister under section 42(3) of the Act.

Statutory conditions

5.4 Section 42 of the Act provides that the Commission must make a licence subject to conditions approved by the Minister requiring that:

- the licensee comply with minimum standards of customer service as determined from time to time by the Minister;
- if the licensee is related to or associated with a business that operates in actual or potential competition with unrelated businesses – keep the business authorised by the licence separate from the related or associated business in the manner and to the extent specified in the conditions;
- the licensee develop and publish a customer contract setting out the rights and responsibilities of customers and the licensee;
- the licensee develop and maintain an asset management plan to ensure optimal long-term management and investment in the licensee’s infrastructure for the benefit of customers;
- the licensee develop and publish codes that are required by this Act to confirm the rights and responsibilities of customers and the licensee on matters such as land development, asset protection, new connections and trade waste approvals;
- the licensee monitor and report to the Commission, on the levels of compliance with the licence and in particular the minimum standards of service.;

- the licensee procure an audit, if required by the Commission, in relation to their compliance with the terms and conditions of the licence;
- the licensee comply with protocols, standards and codes applying to them under the Act;
- the licensee meet the specified requirements relating to their financial or other capacity to continue operations under the licence;
- the licensee notify the Commission about changes to officers and, if applicable, major shareholders of the entity; and
- the licensee comply with the requirements of any scheme approved and funded by the Minister for the performance of community service obligations by licensees.

Other conditions

5.5 Section 42(2) allows the Commission, on granting a licence, to make the licence subject to further conditions that are required under the Regulations. Section 42(3) allows the Commission, on granting a licence, to make the licence subject to further conditions that the Commission considers appropriate. Both of these subsections require the approval of the Minister.

5.6 The Appendix sets out the generic conditions which the Commission proposes to attach to the licences granted. These conditions have been approved by the Minister in accordance with section 42 of the Act.

5.7 Paragraphs 5.4 to 5.6 above do not limit the sorts of conditions which may be imposed by the Commission with the approval of the Minister.

CHAPTER**6****INFORMATION REQUIREMENTS****General**

6.1 The information to be supplied by a person as part of their application for a licence, is that information which is necessary for the Commission to perform:

- its assessment of the suitability of an applicant for a licence; and
- its specification of the licence conditions to apply, were a licence to be granted.

6.2 The Commission does not propose to adopt a specific licence application form. Instead, this chapter outlines the information that applicants are encouraged to provide.

6.3 Applications for a licence are to be made in writing.

6.4 Applicants are reminded that it is an obligation of the applicant to ensure all information furnished to the Commission is complete and correct. Provision of false, misleading or incomplete information would go directly to the question of the suitability of an applicant to hold a licence, as well as potentially constituting an offence under the Act.

Contact details

6.5 Applications should provide the name and title of a nominated contact officer, and their telephone and facsimile (or e-mail) numbers.

6.6 A postal and street address to which correspondence can be sent should also be provided.

Licence types required

6.7 The applicant must state the type of licence (or licences) they are seeking.

6.8 With connection to each type of licence sought, the applicant must state details of the facilities concerned, and details (as applicable) of the area in which the licence activities are to be carried on.

6.9 In line with paragraph 2.11 above, the applicant should state the term (in years) for which they wish the licence to be granted.

Licensee details

6.10 The applicant must show that:

- they are a resident of or have permanent representation in Australia;

- they have the capacity to be sued in their own name in an Australian Court;
- if a company, it is not under external administration as defined by the Corporations law or under a similar form of administration under any laws applicable to it;
- if a natural person, he/she is not an undischarged bankrupt; and
- the applicant has a credit rating or financial situation commensurate with the potential financial exposure.

6.11 If the applicant is a company, licence applications should include a copy of the applicant's Certificate of Registration of the company.

6.12 If the applicant is a wholly owned subsidiary of another company, or one of a group of related companies, summary information about the parent company and the ownership structure of the related companies should be provided.

6.13 The directors, senior management and major shareholders of an applicant should be made known to the Commission in an application. Any breach of a statutory or legal obligation by any of these persons must be made known to the Commission.

Nature of industry participation

6.14 The applicant should provide general information about its existing activities, both within and outside the water or sewerage supply services industries. The application should summarise the reasons why they intend to participate in the Northern Territory water or sewerage supply services industries, and the broad nature of that participation.

6.15 In providing the above explanation, the applicant should address the Commission's objectives as set out in the objects of the Act and section 6 of the UCA and explain how the granting of a licence would be consistent with those requirements.

Technical capacity

6.16 Applicants must show that they have the technical capacity to comply with the likely conditions of the licence of the relevant type (as set out above) and any associated codes and guidelines published at the time or over the life of the proposed licence.

6.17 In order to demonstrate technical capacity to the Commission, applicants should provide:

- details of their experience in and knowledge of the water or sewerage supply services industry;
- a summary of the skills and experience of the directors and senior managers, and their relevance to meeting the requirements of the licence;
- evidence that the applicant has the capacity to comply with the licence conditions, codes and guidelines relevant to its application; and
- if the applicant is to rely on another entity to provide staff and/or resources, a summary of the relationship between the applicant and this entity, including any formal agreements for service provision, and a summary of this other entity's experience in and knowledge of the water or sewerage supply services industries, and technical capacity to meet the relevant requirements of the licences.

Financial viability

6.18 The financial resources available to the applicant should be addressed in considerable detail. Audited financial reports for at least 3 years should be provided in the first instance. The requirement for audited reports is waived in the case of newly incorporated bodies, but equivalent information should be provided in relation to the other corporations in the applicant's group.

Licence conditions

6.19 Where the applicant is seeking particular licence conditions, the nature and reasons for seeking these conditions should be explained. In such circumstances, the applicant should also provide a draft outline of the proposed licence condition(s).

Exemptions

6.20 Where an applicant seeks to be exempted from some of the requirements of the Act or modifications to, or exemptions from applicable codes or rules as they would otherwise apply to the applicant, the application should nominate those provisions and detail the special circumstances giving rise to the request for an exemption. The applicant should also provide a draft of the form of the proposed exemption or modification.

Commercially sensitive information

6.21 The Commission may make public the information included in an application for a licence. Where the applicant considers information contained in an application to be commercially sensitive, the onus is on the applicant to clearly identify such information and the reason they regard it as commercially sensitive, so that the Commission can consider whether the information should be released or not.

CHAPTER**7****REVIEW OF DECISIONS AND APPEALS****Review of decisions**

- 7.1 Sections 29 and 30 of the Act provide for:
- certain persons who are dissatisfied with certain kinds of decisions of the Commission in relation to licensing to have the decision reviewed by the Commission; and
 - persons who have had a decision reviewed by the Commission but who are dissatisfied with the results of the review, to appeal the decision to the Supreme Court.
- 7.2 Under section 29, an application for review may be made to the Commission by:
- an applicant for the grant or variation of the conditions of a licence, or for agreement to transfer a licence, or for review of the decision of the Commission to refuse an application; or
 - a licensee for review of the decision to suspend or cancel the licensee's licence, or to vary the conditions of the licence.
- 7.3 An application for review is to:
- be in writing;
 - set out the decision to which the application relates;
 - set out in detail the grounds on which the applicant seeks review and the decision sought on the review;
 - be accompanied by any information that the applicant considers should be taken into account by the Commission; and
 - be lodged with the Commission:
 - in the case of a decision relating to a licence or application for a licence - within fourteen days after written notice of the decision is given to the licensee or applicant; or
 - in the case of a decision to cancel or suspend a licence or to vary the conditions of a licence – within fourteen days after the decision has been given.
- 7.4 Once the application for review has been received, the Commission:
- must make a decision on the review within four weeks of the application being lodged, and if a review is not decided within four weeks than the Commission is to be taken to have confirmed the decision;
 - may confirm, amend or substitute the decision; and
 - must give the applicant written notice of the Commission's decision, and the reasons for the decision, on the review.

Appeals

7.5 Section 30 of the Act provides that an applicant who is dissatisfied with a decision of the Commission may appeal against the decision to the Supreme Court. This appeal is only to be made on the grounds that:

- there has been bias; or
- the facts on which the decision has been made has been misinterpreted in a material respect.

7.6 The appeal must be made within fourteen days after receipt of the written notice of the decision appealed against.

7.7 Section 31 provides that the Minister may intervene, personally or by counsel or other representative, in a review for the purpose of introducing evidence, or making submissions, on any question relevant to the public interest.

APPENDIX

A

PROPOSED CONDITIONS IN A WATER SUPPLY OR SEWERAGE SERVICES LICENCE

The table below specifies a set of generic conditions, approved by the Minister, that will be applied to both the water and sewerage supply licence areas. These conditions do not limit the sorts of conditions which may be imposed by the Commission and approved by the Minister.

Type of licence term or condition	Nature of licence term or condition
1. Term of the licence	<p>This licence commences on the date it is issued and continues until the earlier of::</p> <p>(a) when it is surrendered by the licensee under section 23 of the Act;</p> <p>(b) when it is cancelled by the Commission under section 24 of the Act; or</p> <p>(c) a specified term is reached.</p> <p>Authority: Section 18 of the Act</p>
2. Annual return	<p>The licensee must lodge an annual return containing such information as is required from time to time by the Utilities Commission by written notice on such matters determined by the Utilities Commission.</p> <p>Authority: Section 19(2)(a) of the Act</p>
3. Suspension of licence	<p>This licence may be suspended under section 24 of the Act.</p>
4. Variation of licence	<p>This licence may only be varied in accordance with section 20 of the Act.</p>
5. Transfer of licence	<p>This licence may only be transferred in accordance with section 21 of the Act.</p>
6. Licence fee	<p>The licensee must pay an annual licence fee or instalment of the annual licence fee, as the case may be, to the Utilities Commission as considered reasonable by the Minister.</p> <p>Authority: Section 19 of the Act</p>

7. Compliance with laws	<p>The licensee must:</p> <p>(a) comply with all applicable provisions of the Ring-fencing Code after such a code is made by the Utilities Commission;</p> <p>(b) comply with all applicable provisions of any other code or rule made under the <i>Utilities Commission Act</i> from time to time;</p> <p>(c) comply with any applicable protocol, standard and code applying to the licensee under the Regulations;</p> <p>(d) comply with all applicable laws including, the Regulations, the Pricing Order and any technical or safety requirements or standards contained in Regulations made under the Act; and</p> <p>(e) develop and comply with its obligations under the codes specified in the Act for the three areas of metering, connections and trade waste.</p> <p>Authority: Sections 42(1)(b), 42(1)(h), 42(1)(e), 52(5), 72 and 83 of the Act</p> <p>The licensee must notify the Utilities Commission within 3 business days if it is aware of a material breach by the licensee of this licence or any of the regulatory instruments</p>
8. Capacity to operate	<p>The licensee must, from time to time, provide the Utilities Commission with details of the licensee's financial, technical and other capacity to continue operations under this licence, if requested to do so by the Utilities Commission.</p> <p>The licensee must provide the information requested by the Utilities Commission in a manner and form determined by the Utilities Commission and within 20 business days of the request.</p> <p>Authority: Section 42(1)(j), 42(3) of the Act</p>
9. Audit of operations and compliance	<p>The licensee must commission an independent auditor to undertake an audit of:</p> <ol style="list-style-type: none"> 1. all or part of the operations authorised by this licence in respect of each financial year; and 2. its compliance with the obligations under this licence and the regulatory instruments described in the licence in respect of each financial year. <p>The licensee must report the results of the audit in respect of a financial year to the Utilities Commission by a date to be determined by the Utilities Commission.</p> <p>Authority: Section 42(1)(g), and sections 49 and 50 of the Act</p>

10. Asset management plan	<p>The licensee must develop an asset management plan within 12 months after commencement of this licence in order to ensure optimal arrangements for creating, repairing and replacing the licensee’s water or sewerage supply infrastructure for the benefit of customers.</p> <p>The licensee must maintain and implement the asset management plan throughout the period of the licence and each year submit an updated copy of the asset management plan to the Utilities Commission.</p> <p>Authority: Section 48 of the Act</p>
11. Changes in officers and major shareholders	<p>The licensee must notify the Utilities Commission of any change to any officer and, if applicable, any major shareholder of the licensee, within 20 business days after the change.</p> <p>Authority: Sections 42(1)(k) and 42(3) of the Act</p>
12. Community service obligations	<p>The licensee must comply with the requirements of any scheme approved and funded by the Minister for the performance of community service obligations by water or sewerage supply entities.</p> <p>Authority: Section 42(1)(m) and 42(4) of the Act</p>
13. Adequate service arrangements	<p>The licensee must ensure that it has in place at all times arrangements to supply water or sewerage services to its customers except in circumstances set out in section 44 of the Act.</p> <p>Authority: Sections 3(b) and 42(1)(a) of the Act</p>
14. Minimum standards of service to customers	<p>In accordance with sections 49 and 50 of the Act the licensee must monitor and report to the Utilities Commission on its compliance with the minimum standards in providing water or sewerage supply services to customers.</p> <p>Authority: Section 42(1)(f), 50(3) and 50(1) of the Act</p>
15. Customer contract	<p>The licensee must develop (within 6 months from the issue of this licence), publish, and comply with, a customer contract setting out the rights and responsibilities of customers (including minimum standards and procedures) having an authorised connection to the licensee’s water or sewerage supply infrastructure, regarding the provision of water or sewerage supply services including arrangements for dealing with complaints and resolving disputes.</p> <p>The licensee must prepare a summary of that Customer Contract, in a form approved by the Utilities Commission and distribute copies to each of its customers.</p> <p>Authority: Section 47 of the Act</p>

16. Service plans	<p>The licensee must produce and maintain service plans for the water or sewerage supply licence area detailing the location of water or sewerage mains and the position of those mains.</p> <p>The service plan referred to above is to be made available to the public for inspection.</p> <p>The licensee must have the service plans available for copying by any person who has paid the prescribed fee under the Pricing Order.</p> <p>Authority: Section 51 of the Act.</p>
17. Obligation to provide water or sewerage supply services to customers	<p>On the request of a customer, the licensee must provide water or sewerage supply services to that customer in respect of an authorised connection on premises which are located within its water or sewerage supply licence area on fair and reasonable terms and conditions consistent with any Pricing Order issued by the Minister under the Act.</p> <p>The licensee does not have an obligation to offer to provide water or sewerage supply services to customers in the circumstances set out in section 44 of the Act.</p> <p>Authority: Section 47(6) and 41(2) of the Act</p>
18. Complying with directions	<p>The licensee must comply with directions regarding emergency precautions given by the Chief Health Officer pursuant to section 46 of the Act.</p> <p>Authority: Section 46 of the Act</p>
19. Disconnection	<p>The licensee must not disconnect or discontinue supply of water or sewerage services, or take any action which may lead to the disconnection or discontinuance of supply of water or sewerage services to a customer, except in accordance with section 44 of the Act and the disconnection procedures prescribed in the Customer Contract, where it applies.</p> <p>Authority: Section 44 of the Act</p>
20. Customer enquires	<p>Within 3 months of issue of the licence, the licensee must establish and comply with procedures to deal with dispute resolution or other general enquires in respect of its customers on terms approved by the Utilities Commission.</p> <p>Authority: Section 42(1)(c) of the Act</p>
21. Appointment of operator	<p>If an operator is appointed to the licensee's business under section 33 of the Act, the operator must exercise its functions and powers in such a manner as may be specified by the Utilities Commission in the instrument of appointment.</p> <p>Authority: Section 33 of the Act</p>

22. Notice of charges	<p>The licensee must notify its customers of any changes in rights, obligations and charges applicable to any water or sewerage supply services supplied to that customer by including an explanatory notice with the next statement sent to that customer.</p> <p>Authority: Section 42(3) of the Act</p>
23. Participation in development of regulatory instruments	<p>The licensee must participate, to the extent specified by the Utilities Commission, in the development, issue and review of any regulatory instruments.</p> <p>Authority: Section 42(3) of the Act</p>
24. Notice of changes to licensed areas	<p>The licensee must inform the Utilities Commission within 3 days of the Minister announcing a declaration to or a variation to a water or sewerage supply licence area.</p> <p>Authority: Section 42(3) of the Act</p>
25. Provision of information to the Utilities Commission and the Chief Health Officer	<p>The licensee must, from time to time, provide the Utilities Commission, in a manner and form to be determined by the Utilities Commission, such information necessary to the performance of its functions under any applicable laws that the Utilities Commission may request.</p> <p>The licensee must, from time to time, provide the Chief Health Officer, in a manner and form to be determined by the Chief Health Officer, such information necessary to the performance of its functions under any applicable laws that the Chief Health Officer may request.</p> <p>The Utilities Commission may request the licensee to monitor certain activities in connection with its licensed operations.</p> <p>The licensee must comply with a request of the Utilities Commission.</p> <p>Authority: Section 42(3) of the Act</p>