

SABAH WATER SUPPLY ENACTMENT 2003

SABAH WATER SUPPLY (LICENSING) REGULATIONS 2021

IN exercise of the powers conferred by paragraph 72(p) of the Sabah Water Supply Enactment 2003 [No. 10 of 2003], the Minister may, after consultation with the State Water Authority, makes the following regulations:

Citation and commencement

1. (1) These regulations may be cited as the Sabah Water Supply (Licensing) Regulations 2021.

(2) These Regulations are deemed to have come into operation on 15 July 2021.

Interpretation

2. In these Regulations, unless the context otherwise requires—

“Enactment” means Sabah Water Supply Enactment 2003 [No. 10 of 2003];

“watercourse” includes rivers, streams and creek including any tributary, distributary or artificial deviation thereof, seas, lakes, ground water, dams, reservoirs, ditches, drains and passages, other than pipes through which water flows for the supply of water to any premises;

“water supply services” means the treatment of water abstracted from watercourses and the distribution and supply of treated water to consumers and includes the operation and maintenance of the water supply system.

Types of licence

3. A separate licence shall be required for the following activities, that is—

(a) ownership of a water supply system or any part of the system; or

(b) undertaking, providing or making available any water supply services or part of the services.

Fees and security for licence

4. (1) The fees to be paid for a licence shall be as prescribed in Tables A and B of the Schedule.

- (2) The annual licence fee for each licence shall be paid in the following manner:
- (a) on the first anniversary of the licence and annually thereafter, the annual licence fee shall be based on the audited accounts of the licensee; or
 - (b) if the audited accounts have not been finalized on or before the first anniversary or subsequent anniversaries, the annual licence fees shall first be based on the unaudited accounts of the licensee provided that within six months after the first anniversary or subsequent anniversary, an adjustment shall be made to the annual licence fees based on the audited accounts of the licensee.
- (3) A renewal fee shall be payable upon approval of the application for renewal of each licence.
- (4) The security to be paid for a licence shall be as determined by the State Water Authority.
- (5) The State Water Authority may in his discretion retain such sum out of the security stipulated under subregulation (4) which is deemed sufficient by the State Water Authority to meet the obligations of the licensee under the terms and conditions of the licence.

Refusal to grant a licence

5. Where the State Water Authority refuses to grant a licence under subsection 16(3) of the Enactment, the State Water Authority shall inform the applicant in writing of such refusal.

Renewal of licence

6. (1) A licensee may apply for renewal of the licence by submitting a written application to the State Water Authority.
- (2) The application referred to in subregulation (1) shall be made not less than six months before the expiry of the licence and shall be accompanied by such information and other documents as may be specified by the State Water Authority.

Application to impose additional conditions, vary or revoke the conditions of a licence

7. (1) A licensee may apply to the State Water Authority to—
- (a) impose any additional conditions on the licence; and
 - (b) vary or revoke any conditions to the licence.
- (2) An application made under subregulation (1) shall be accompanied by the fee as prescribed in the Table A of the Schedule.
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(3) An application made under subregulation (1) shall be in writing and shall be submitted to the State Water Authority stating the following matters:

- (a) the proposed dates on which the proposed addition, variation or revocation shall become valid;
- (b) the details of the proposed addition, variation or revocation and the reasons for such addition, variation or revocation; and
- (c) any other information as the State Water Authority may require.

(4) The State Water Authority may request the licensee to provide within a specified time such further information or other document as the State Water Authority may require.

(5) If any further information or other document required under subregulation (4) are not provided by the licensee within the time specified in the request or any extension of time granted by the State Water Authority, the application shall be deemed to be withdrawn and shall not be further proceeded with, but it shall not affect the right of the licensee to make a fresh application.

(6) The State Water Authority may, after considering the application under subregulation (1) and the further information or other document provided under subregulation (4)–

- (a) approve the application; or
- (b) refuse to approve the application.

(7) The decision of the State Water Authority to approve or not to approve the application shall be communicated to the licensee by the State Water Authority by written notice as soon as practicable.

(8) The written notice by the State Water Authority under subregulation (7) shall specify–

- (a) in the case where the application is approved, the fact of such approval; and
- (b) in the case of a refusal to approve the application, the fact of such refusal and the reason for such refusal.

Transfer of licence

8. (1) A licensee may apply to the Minister to transfer its licence by submitting a written application to the Minister and such application shall be accompanied by–

- (a) the relevant particulars of the proposed transfer, including the particulars of the proposed transferee and the experience and capability of the proposed transferee in undertaking the licensed activities; and
 - (b) the fees as prescribed in Table A of the Schedule.
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(2) The Minister may, at any time after the receipt of an application under subregulation (1), request the licensee to give to the Minister within specified time further information or other document on the application.

(3) If any further information or other document required under subregulation (2) are not provided by the licensee within the time specified in the request or any extension of time granted by the Minister, the application shall be deemed to be withdrawn and shall not be further proceeded with, but without affecting the right of the licensee to make a fresh application.

(4) The Minister may, after considering the application under subregulation (1) and the further information or other document provided under subregulation (2)–

- (a) approve the application, with or without conditions; or
- (b) refuse the application.

(5) The decision of the Minister to approve or to refuse the application shall be communicated to the licensee by written notice as soon as practicable.

(6) The written notice by the Minister under subregulation (5) shall specify–

- (a) in the case where the application is approved, the fact of such approval and, where conditions are imposed, the conditions imposed; and
- (b) in the case of a refusal, the fact of such refusal and the reason for such refusal.

Change in particulars of licensee

9. (1) A licensee shall notify the State Water Authority in writing, as soon as possible, of any change in the particulars of the licensee and the notification shall be accompanied by the fee as prescribed in Table A of the Schedule.

(2) Upon receipt of the notification under subregulation (1), the State Water Authority shall amend the particulars of the licensee in its licence.

Replacement of licence

10. (1) Where a licence is lost or destroyed, a licensee shall lodge a report to the State Water Authority in respect of the loss or destruction.

(2) An application for a replacement of a licence shall be made in writing to the State Water Authority and shall be accompanied by–

- (a) any information as required by the State Water Authority; and
 - (b) the fee prescribed for its replacement as prescribed in Table A of the Schedule.
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(3) If the State Water Authority is satisfied that the loss or destruction of a licence was not the result of any fraud, the State Water Authority may issue a replacement licence in the same form as the original but with the word "DUPLICATE" endorsed on the licence.

(4) The duplicate licence issued under subregulation (3) shall have the same effect as the original licence.

Certified true copy of a licence

11. (1) A licensee may apply to the State Water Authority in writing to obtain a certified true copy of his licence.

(2) Upon payment of the fee as prescribed in Table A of the Schedule, the State Water Authority shall provide a certified true copy of the licence to the licensee.

Transitional

12. The provisions of paragraphs 3(a) and (b) shall not apply to any entity who, on the date of coming into operation of these Regulations, was carrying on any of the acts described in paragraphs 3(a) or (b) until the expiration of six months from that date or the final determination of its application for a licence under these Regulations, whichever is the later.

SCHEDULE

TABLE A

(subregulations 4(1), 4(3) and 7(2), paragraph 8(1)(b), subregulation 9(1), paragraph 10(2)(b) and subregulation 11(3))

FEES

<i>Types of fees</i>	<i>Fees (RM)</i>
Application fee	10,000
Processing fee for renewal of licence	10,000
Application to impose additional conditions, vary or revoke the conditions of licence	1,000
Application for transfer of licence	5,000
Fee for change in particulars of licence	100
Fee for replacement of licence	1,000
Application for certified true copy of licence	50
Fee for making of copy of, or taking extracts from the register	50

TABLE B
ANNUAL LICENCE FEE

<i>Type</i>	<i>Nature</i>	<i>Annual Licence Fee</i>
Ownership only		1% of the gross turnover of the preceding financial year
Water Supply Services	Water Billing only Water Distribution only Water Treatment only Water Treatment and Distribution	1% of the gross turnover of the preceding financial year
Ownership and Water Supply Services held by the same legal entity		1% of the gross turnover of the preceding financial year
Made		

DATO' SRI MOKTAR BIN RADIN
Minister of Works Sabah

