

CONTROL OF BOREHOLES (MODEL) BYE-LAWS

(under section 38(1))

(26th April, 1968)

ARRANGEMENT OF BYE-LAWS

BYE-LAW

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Schedule

S.I. 36, 1968.

1. Citation and application

(1) These Bye-laws may be cited as the Control of Boreholes (Model) Bye-laws.

(2) These Bye-laws shall apply in relation to boreholes from which the District Council provides public water supplies in accordance with the provisions of paragraph 4 of the Schedule to the Act.

(3) In adopting these Bye-laws under the provisions of paragraph (1), the District Council shall specify to which boreholes the Bye-laws shall apply.

2. Interpretation

In these Bye-laws, unless the context otherwise requires-

"**area**" means the area of a District Council as defined by the order establishing the council under section 4 of the Act;

"**borehole**" means a borehole to which these Bye-laws apply by reason of the provisions of bye-law 1(2) and (3).

"**District Council**" means any council which has adopted these Bye-laws;

"**domestic purposes**" excludes the watering of stock;

"**officer**" means the officer of the council appointed by the council to be in charge of a borehole;

"**stock**" means any domestic or domesticated animals.

3. Taking of water for domestic purposes

(1) A person may, with the permission of the officer, and on payment of the fee prescribed by the Council adopting these Bye-laws in relation to the matters referred to in the Schedule, take water from a borehole for domestic purposes.

(2) The fee prescribed under sub-bye-law (1) shall be payable annually in advance.

(3) Permission given under sub-bye-law (1) shall authorize the taking of water for domestic purposes by the person to whom permission has been granted and by such of his immediate family as are resident with him.

(4) Nothing in this bye-law shall apply to the casual taking of water for drinking purposes or to the supply of water from a borehole to a consumer by means of pipes.

4. Registration of stock

(1) Subject to the provisions of bye-law 7, no person shall water any stock at any borehole unless the owner thereof has registered such stock with the officer who may refuse such registration if-

- (a) there is insufficient water and grazing available for such stock;
- (b) any fee payable by the owner under these Bye-laws in respect of any borehole is outstanding;
- (c) the owner of the stock has previously watered his stock at some other place and insufficient reason exists for changing the place at which such stock is watered;
- (d) the owner of the stock has registered such stock at another borehole,

and who shall refuse registration if the effect of registration would be to authorize the watering of stock in excess of the number determined by the council under bye-law 6:

Provided that no such registration shall be refused if application for registration is made within six months of the commencement of these Bye-laws and relates to stock which is watered at the borehole upon the commencement hereof.

(2) There shall be an appeal to the council against any refusal by an officer to register any stock under the provisions of paragraph (1) and, in the event of such appeal, the council may give such direction in the matter as it may think fit.

(3) Any person watering any stock at a borehole in contravention of the provisions of paragraph (1) shall be guilty of an offence and shall be liable to the penalties prescribed in bye-law 14.

5. Fees

(1) Upon registration of any stock under the provisions of bye-law 4, the fees prescribed in relation to the matters referred to in the Schedule shall be payable by the owner thereof.

(2) Such fees shall be payable monthly in advance.

6. Number of stock which may be registered at any borehole

The council may by resolution determine the maximum number of stock which may be registered at any borehole under the provisions of bye-law 4(1) and, subject to the provisions of the proviso to that bye-law, the officer shall comply with any such resolution.

7. Watering of stock in an emergency

(1) Notwithstanding the provisions of bye-law 4, in an emergency the officer may permit any stock to be watered at a borehole without registration.

(2) The presence of such stock at the borehole shall be reported by the officer as soon as practicable to the council.

(3) Any person watering stock under the provisions of paragraph (1) shall be liable for the payment of the fees prescribed in relation to the matters referred to in the Schedule.

8. Cancellation of registration

(1) The officer may cancel the registration of any stock-

- (a) if any fee owing under the provisions of bye-law 5 is not paid within 30 days of due date;
- (b) if there is insufficient water to supply all the stock registered at the borehole.

(2) There shall be an appeal to the council against any such cancellation and, in the event of such appeal, the council may give such direction in the matter as it may think fit.

9. Duties of officer

(1) In registering or cancelling the registration of stock under the provisions of these Bye-laws the officer shall act in accordance with such instructions as may be given him by the council.

(2) In exercising his powers under these Bye-laws to refuse to register any stock or to cancel the registration of any stock because of an insufficiency of water, the officer shall endeavour to ensure that the available water is apportioned as fairly as possible among persons requiring such water for their stock.

10. Area surrounding pumping station

(1) Where the council has fenced the pumping station of any borehole, no person shall permit any stock to enter the area demarcated by that fence.

(2) Any person who contravenes the provisions of paragraph (1) shall be guilty of an offence and liable to the penalties prescribed in bye-law 14.

11. Control of stock

(1) No stock may be watered at any borehole unless they are in the charge of their owner or some responsible person appointed by their owner.

(2) The person in charge of such stock shall comply with any instructions which may be given by the officer as to the manner in which such stock are to be watered.

(3) Any person who fails to comply with any instruction given under the provisions of paragraph (2) shall be guilty of an offence and liable to the penalties prescribed in bye-law 14.

12. False or misleading statements

Any person who knowingly makes to any officer any statement for the purpose of obtaining the registration of his stock at any borehole which is false or misleading in any material particular shall be guilty of an offence and liable to the penalties prescribed in bye-law 14.

13. Registers

The register kept for the purposes of bye-law 4 shall be in such form as the council may determine.

14. Penalties

Any person contravening the provisions of bye-law 4(3), 10(2), 11(3) or 12 shall be liable to a fine not exceeding P10 or, in default of payment, to imprisonment for a term not exceeding one month, and, in the case of a second or subsequent offence, to a fine not exceeding P50 or, in default of payment, to imprisonment for a term not exceeding six months.

SCHEDULE

- (a) Water for domestic purposes under bye-law 3;
- (b) Stock registered under bye-law 4-
 - (i) cattle, per head, per month;
 - (ii) other stock, per head, per month;
- (c) Stock watering under the provisions of bye-law 7 per head, per day.