

Public Water Services Act (SFS 2006:412)¹

Introductory provisions

Section 1. The Provisions of this Act are intended to ensure that water supply and sewerage are ordered in a wider context if necessary for the protection of human health or the environment.

Section 2. The following definitions apply for the purposes of this Act.

Water supply: supply of water suitable for normal domestic use.

Sewerage: leading-off of stormwater and drainage water from an area of continuous settlement or from a burial ground, leading-off of wastewater or leading-off of water which has been used as a coolant.

Water services: water supply and sewerage.

Water supply and sewerage installation: an installation for the purpose of catering to the need of dwelling houses or other building development for water services.

Public water supply and sewerage facility: a water supply and sewerage installation over which a municipality has a legally determinant influence and which has been arranged and is used in order to discharge the obligations of the municipality under this Act.

Private facility: a water supply and sewerage facility or other device for water supply or sewerage neither constitutes nor is included in a public water supply and sewerage facility.

Operational area: the geographic area within which one or more water services have been arranged or are to be arranged through a public water supply and sewerage facility.

Mandator: the party owning a public water supply and sewerage facility.

Property owner: the party owning a real property unit within the operational area of a public water supply and sewerage facility or holding such real property by site leasehold, permanent right of occupation, entailed estate or testamentary disposition.

Water supply and sewerage installation: conduits and devices united with the same which are not included in a public water supply and sewerage facility but have been arranged to provide water supply or sewerage to one or more property units and are connected or intended to be connected to a public water supply and sewerage facility.

Connection point: the boundary between a public water supply and sewerage facility and a water supply and sewerage installation.

Public space land: land which, in a detailed development plan under the Planning and Building Act (1987:10), is entered as a public space or, if the land is not covered by a detailed development plan, a road or land which functionally and in other respects corresponds to such land.

Facility charge: a non-recurrent charge to cover an item of expenditure entailed by the arrangement of a public water and sewerage facility.

¹ Unofficial translation by Fastighetsvetenskap/Unit of Real Estate Planning and Land Law, Kungl. Tekniska Högskolan/Royal Institute of Technology.

User charge: a periodic charge to cover running and maintenance costs, capital investment costs or other expenses connected with a public water supply and sewerage facility and not covered by a facility charge.

Section 3. For the purposes of this Act, a municipality shall be considered to have a legally determinant influence on a water supply and sewerage facility if the municipality, alone or together with one or more other municipalities,

1. owns the facility entirely,
2. through its ownership controls more than half of all votes in the legal person or persons entirely owning the facility or otherwise commands a corresponding majority of the decision-making power in the legal person or persons entirely owning the facility,
3. is entitled to appoint or depose more than half the members of the board of directors of the legal person or persons entirely owning the facility, or
4. comprises all partners with unlimited liability in a partnership which entirely owns the facility.

Section 4. If necessary in order to accomplish the purpose of this Act, the provisions of this Act applying to a real property unit shall also be applied in a matter concerning a building or other facility which does not belong to the owner of the property unit. In such a case, whatever is provided in this Act concerning the property owner shall be applied to the owner of the building or facility.

Section 5. If a party other than a property owner has entered into an agreement with the mandator concerning the right of using the mandator's water supply and sewerage facility, the provisions of this Act concerning a property owner shall also apply to the user.

The duty of the municipality to provide water services

Section 6. If, out of consideration of the protection of human health or the environment, water supply or sewerage needs to be arranged in a wider context for a certain existing or future settlement, the municipality shall

1. determine the operational area within which the water service or water services need to be arranged, and
2. see to it that the need is provided for, promptly and for as long as the need continues, in the operational area through a public water supply and sewerage facility.

Operational area of a public water supply and sewerage facility

Section 7. A resolution concerning the operational area of a public water supply and sewerage facility shall indicate which real property units the operational area comprises.

Section 8. If an operational area needs to comprise one or more real property units included in a joint property unit for water and sewerage affairs, the operational area shall be defined in such a way as to comprise all real property units included in the special joint property unit.

Where there are special reasons for so doing, the operational area may be defined in derogation of the requirement in the foregoing.

Section 9. If within the operational area there is a real property unit or settlement which manifestly does not need to be included in the wider context referred to in Section 6, the operational area may be restricted so as not to include that property unit or settlement. Such restriction of the operational area may be made only if the need of the property unit or settlement for water supply and sewerage can be appropriately provided for through private facilities which are acceptable having regard to the protection of human health and the environment.

The arrangement and operation of a public water supply and sewerage facility

Section 10. A public water supply and sewerage facility shall be ordered and run in such a way as to meet the requirements which can be made having regard to the protection of human health and the environment and to the interest of good management of natural resources.

Where compatible with the main purpose of the facility, the facility should be ordered and run in such a way that other public interests in need of the facility can also be accommodated.

Section 11. A public water supply and sewerage facility may not be ordered

1. at variance with a detailed development plan, area provisions or other provisions concerning the manner in which the land is to be developed, or
2. in such a way as to impede appropriate development or suitable planning.

Minor derogations are, however, permissible, if the purpose of the plan or provisions is not frustrated.

Section 12. If a public water supply and sewerage facility implies that water services are provided through conduit networks for water supply or sewerage, the mandator shall for each real property unit within the operational area of the water supply and sewerage facility determine a connection point. The connection point shall be in the immediate vicinity of the property unit unless there are special reasons for a different location.

The mandator shall, within a reasonable length of time, having regard to the property owner's interest in being able to plan for his use of the property unit, consult and subsequently inform the property owner concerning the location of the connection point.

Section 13. For the public water supply and sewerage facility, the mandator shall order

1. conduits and other devices for water supply to or sewerage from each connection point,
2. devices for leading off of water other than through a connection point, and
3. the devices otherwise needed in order for the water supply and sewerage facility to be capable of serving its purpose and meeting reasonable demands of security.

The mandator's obligation as aforesaid does not include roadside ditches, gutters, gutter drains or conduits connecting gutter drains to the public water supply and sewerage facility.

Section 14. The mandator shall see to it that the property owners affected are notified in reasonable time of planned disconnections of water supply and other essential changes in the conditions attending the use of the water supply and sewerage facility.

Section 15. The mandator may delegate to another party the operational management of the water supply and sewerage facility.

Right of property owners to use a public water supply and sewerage facility

Section 16. A property owner is entitled to use a public water supply and sewerage facility if the real property unit

1. is located within the operational area of the water supply and sewerage facility, and
2. needs a water service and the need cannot be better provided for in any other way.

Section 17. In derogation of Section 16, the mandator may defer performance of the construction or enlargement works necessary for enabling the property owner to use the water supply and sewerage facility, if the works

1. need to be co-ordinated with other works and this co-ordination would otherwise be substantially impeded, and
2. are carried out in the order indicated by the mandator's enlargement plan.

Section 18. In derogation of Section 16, the mandator is under no obligation to have a real property unit connected or let it be connected to the water supply and sewerage facility

1. before the property owner has paid the facility charge determined in accordance with Section 34 or has furnished acceptable security, or
2. if the water supply and sewerage installation for the property unit has vital deficiencies.

Special devices for using a public water supply and sewerage facility

Section 19. The mandator shall order the pumps and other special devices which, by reason of the design or construction of the public water supply and sewerage facility, are needed on a real property unit to enable the property owner to use the water supply and sewerage facility.

If the water consumption on a property unit needs to be established by metering, the mandator shall order the water meter or meters needed for metering.

Section 20. It is the duty of a property owner to provide necessary space for a device as referred to in Section 19.

The property owner shall continuously inspect the device and protect it from damage, and also where necessary be responsible for its electric power supply.

The property owner shall promptly report any faults and malfunctions to the mandator.

Use of a public water supply and sewerage facility

Section 21. A property owner may not use a public water supply and sewerage facility in such a way as to

1. add to the sewer liquids, substances or objects which can have a damaging effect on the network or the working of the facility or can otherwise entail damage or inconvenience,
2. make it difficult for the mandator to meet the requirements made of the water supply and sewerage facility and its operation or otherwise to discharge his statutory, legal or contractual obligations, or
3. otherwise inconvenience the mandator or any other party.

Section 22. If the water and sewerage conditions of a property deviate substantially from conditions otherwise prevailing in the operational area of a public water supply and sewerage facility, the mandator may agree with the property owner on special conditions for the use of the water supply and sewerage facility.

Section 23. The Government or, by Government authorisation, the municipality may issue further prescriptions concerning use of public water supply and sewerage facilities.

Liability to pay charges for public water services

Section 24. A property owner shall pay charges for a public water supply and sewerage facility if the real property unit

1. is located within the operational area of the water supply and sewerage facility and
2. having regard to the protection of human health or the environment needs a water service and the need cannot be better provided for in any other way.

In assessing the need as referred to in subsection one, point 2, special consideration shall be paid to the extent to which alternatives compared accommodate the interests of good management of natural resources.

If the property unit is undeveloped but according to a detailed development plan is intended for development, assessment of the need pursuant to subsection one, point 2, shall be conducted as if the property unit was developed in accordance with the plan. This does not apply, however, if there are special reasons for a different assessment.

Section 25. A charge as provided in Section 24 shall refer to

1. water services provided to the real property unit through a connection point, from the time when the mandator has ordered the connection point and informed the property owner as provided in Section 12, and
2. leading-off of water from the property unit other than through a connection point, from the time when the mandator has ordered the devices needed for such leading-off and has informed the property owner thereof.

Section 26. Over and above the provisions of Sections 24 and 25, a property owner shall pay a charge for a public water supply and sewerage facility if the real property unit

1. is located within the operational area of the water supply and sewerage facility,

2. is developed or, according to a detailed development plan, is intended for development, and

3. needs, or benefits from, the leading-off of water from public space land.

The charge shall refer to the leading-off of water from public place land within the operational area of the water supply and sewerage facility, from the time when the mandator has ordered the devices needed for such leading-off and has informed the property owner thereof.

Section 27. The party responsible for public space land being put in order and maintained shall pay a charge for a public water supply and sewerage facility if

1. the public space land is located within the operational area of the water supply and sewerage facility and

2. leading-off of water from the public place and is needed for the protection of human health or the environment.

The charge shall refer to the leading-off of water from the public space land from the time when the mandator has ordered the devices needed for such leading-off and has informed the party liable for the charge accordingly.

Section 28. Charges as provided in Sections 24-27 and referring to the leading-off of water shall also cover the cost of such purification of the water as is necessary having regard to the protection of human health and the environment.

Size of charges and bases of their computation

Section 29. Charges as provided in Sections 24-28 are determined as facility charges and user charges.

Section 30. The charges may not exceed the amount needed to cover the necessary costs of ordering and running the water supply and sewerage facility.

Moneys may be transferred to a fund for future new investments if

1. an investment plan has been adopted,

2. the transfer refers to a particular measure,

3. the measure and the estimated cost of the same are stated in the plan,

4. the plan shows when the moneys thus funded are intended to be used, and

5. the plan contains the information otherwise necessary for assessing the need for the amount transferred.

Charges as provided in Sections 26 and 27 may not exceed the amount needed to cover the cost of that water service.

Section 31. The charges shall be determined in such a way that the costs are reasonably and fairly apportioned between the parties liable to pay them.

If, due to special circumstances, the water services for a particular property or property units entail costs which notably deviate from those of other property units in the operational area, the charges shall be determined according to the differences.

Charges as provided in Sections 26 and 27 shall be apportioned between the property owners referred to in Section 26 and the liable parties referred to in Section 27 according to what is equitable, having regard to the extent of the public space land affected and the benefit derived by the property owners from the water service.

Section 32. The facility charges shall be determined on computation bases whereby a property owner need not pay more than is commensurate with the property unit's share of the cost of ordering the water supply and sewerage facility.

Section 33. The user charges shall be determined on computation bases which are the same irrespective of the time of year when the water supply and sewerage facility is used. If, however, having regard to water supply, the need for satisfactory wastewater purification or other causes, special measures of a seasonal nature are needed during a certain minor portion of the year, user charges for such a time may be determined on calculation bases implying higher charges than during the greater part of the year.

Section 34. The amount of the charges and the manner of their computation shall be evident from a tariff. The charges may not be determined at amounts exceeding what is compatible with the provisions of Sections 30-33.

The municipality may issue prescriptions concerning the tariff. The municipality may delegate to the mandator determination of the amount of the charges in accordance with bases of calculation in the municipal tariff prescriptions.

Payment of the charges

Section 35. Charges pursuant to this Act shall be paid to the municipality or the mandator as determined by the municipality.

Except where otherwise indicated by Section 36, the charges shall be paid on demand. Interest pursuant to Section 6 of the Interest Act (1975:635) on arrears of payment shall be paid from the day of such demand.

Section 36. A facility charge shall be divided into annual payments (instalments) over a certain period of time not exceeding ten years, if

1. the charge is onerous having regard to the economic capacity of the real property unit and other circumstances,
2. the property owner requests division of the charge into instalments, and
3. the property owner furnishes acceptable security.

Interest pursuant to Section 5 of the Interest Act (1975:635) shall be paid on the unpaid portion of the charge from the day on which the first instalment falls due for payment and until payment is rendered. Interest on an instalment which has fallen due for payment shall instead be paid pursuant to Section 6 of the Interest Act from the due date of the instalment and until payment is rendered.

Section 37. When a property changes hands, the new owner is liable for charges falling due for payment on the possession date or thereafter, except where otherwise indicated by subsection two.

The former owner is liable for payment of user charges referable to the period preceding the taking of possession by the new owner.

Agreement on charges

Section 38. The mandator may enter into agreements with property owners and other liable for charges on matters concerning charges which are not provided for in the municipal tariff prescriptions.

Purchase of private facilities etc.

Section 39. If, for a property real unit within the operational area of a public water supply and sewerage facility, there exists a private facility which can be used in the public water supply and sewerage facility, the party owning the private facility is duty bound, on the mandator so requesting, and in return for reasonable remuneration, to let the private facility become part of the public water supply and sewerage facility.

Section 40. If a private facility becomes unserviceable due to the municipality ordering or enlarging a public water supply and sewerage facility, the mandator shall pay reasonable compensation to the owner of the private facility.

Access for investigation, installation and maintenance

Section 41. The mandator is entitled to such access to a real property unit as is needed in order to

1. investigate a water supply and sewerage installation and its use before the water supply and sewerage installation is connected to the public water supply and sewerage facility or when otherwise necessary to enable the mandator to discharge his obligations, and
2. install, maintain and otherwise discharge his obligations with regard to such special devices as are referred to in Section 19.

Confidentiality

Section 42. A party participating or having participated in an investigation or other measures as referred to in Section 41 may not divulge or use without authorisation any information emerging from the investigation concerning the business or operating conditions of individuals.

In public activity, the provisions of the Secrecy Act (1980:100) shall instead apply.

Disconnection of water supply

Section 43. The mandator may disconnect the water supply to a property if

1. the property owner has neglected his obligation to pay a charge or has otherwise neglected his obligations under this Act,
2. the neglect is substantial,
3. the disconnection does not entail inconvenience to human health,
4. the mandator has called upon the property owner in writing to rectify the matter and has allowed the property owner a reasonable length of time in which to rectify the matter, and
5. despite being called upon as referred to in point 4, the property owner has not rectified the matter within the reasonable length of time allowed.

The cost of the disconnection may be charged to the property owner.

Liability in damages etc.

Section 44. If the operational area of a public water supply and sewerage facility is restricted by authority of Section 9, the mandator shall compensate the property owner or the owner of the settlement for the damage which the restriction entails. In determining the compensation, consideration shall be paid to measures which the mandator has taken in order to provide for the continuing need of the real property unit or settlement for water supply and sewerage.

Section 45. The mandator shall pay compensation for flood damage to a real property unit within the operational area of a public water supply and sewerage facility if

1. the mandator has neglected a duty under this Act or under prescriptions issued by authority of the same, and
2. the neglect has caused water intended to be supplied or to be lead off through the mandator's water supply and sewerage facility to enter the property unit on the surface or otherwise.

Section 46. If a property owner incurs damage due to the mandator, in a manner other than referred to in Section 45, having exceeded his rights or neglected an obligation under this Act or under prescriptions issued by authority of the same, the mandator shall reinstate what has been disturbed or complete what has been neglected and shall pay compensation for the damage.

Section 47. If a property owner incurs damage due to the mandator having exceeded his rights or neglected an obligation under this Act or under prescriptions issued by authority of the same, the mandator shall reinstate what has been disturbed or complete what has been neglected and shall pay compensation for the damage.

Section 48. For the purposes of this Act, damages shall comprise injury, damage to property and pure economic loss.

Section 49. If a property owner has paid a facility charge and it is then found that, owing to building permission being refused, the property cannot be used in the manner presumed when the charge was paid, the municipality shall refund the charge or part of it. Refund shall be made insofar as the object to which the charge referred will not lead to any corresponding water services to the real property unit.

Interest on the amount refunded shall be paid by the municipality, as provided in Section 5 of the Interest Act (1975:635), with effect from the day on which the property owner paid the charge.

Proceedings for a refund shall be filed within two years of the day on which the decision on which the claim is founded acquired force of law. Proceedings may, however, be filed later if the relevant change in the conditions governing the use of the property unit could not reasonably have been foreseen within the allotted time.

Accounting

Section 50. A mandator shall, with regard to the operation of ordering and running a public water supply and sewerage facility, see to that

1. the operation is recorded and accounted for in accordance with accepted accounting principles, with an income statement and balance sheet separately presented and with supplementary information indicating how the mandator has apportioned costs shared with other operations, and

2. the accounts, having been adopted, are available to the property owners.

Supervision

Section 51. The county administrative board supervises the discharge by the municipality of its duty under Section 6 to cater to the need for water services. The county administrative board may order the municipality to discharge this duty. An order of this kind may be issued *sub poena*.

Appeals and review of water and sewerage issues

Section 52. An order issued by the county administrative board pursuant to Section 51 may be appealed by the municipality to the Swedish Water Supply and Sewerage Tribunal.

Section 53. The Swedish Water Supply and Sewerage Tribunal tries other cases concerning matters on which provision is made in this Act or in prescriptions issued by authority of the same.

Section 54. Orders by the National Water Supply and Sewerage Tribunal may be issued *sub poena*.

Section 55. Questions concerning the exaction of contingent fines imposed under this Act are tried by the National Water Supply and Sewerage Tribunal on its own initiative or by application.

Section 56. Provisions concerning the National Water Supply and Sewerage Tribunal and its procedure in cases under this Act and concerning enforcement and appeal of the Tribunal's decisions are contained in the National Water Supply and Sewerage Tribunal Act (1976:839).

Derogation of Chap. 2, Section 1 of the Local Government Act (1991:900)

Section 57. In derogation of the provision in Chap. 2, Section 1 of the Local Government Act (1991:900) concerning connection with the area of the municipality or its members, a municipality may manage the operation of a public water supply and sewerage facility in other municipalities if the operation takes place on a commercial basis and is financially accounted for separately from other activities.