

REPRINT

SOLOMON ISLANDS WATER AUTHORITY ACT (CAP. 130)

As in force at: 1 March 1996

STATUS: HISTORICAL

This version is that published in the Revised Edition of the Laws in force in Solomon Islands on 1st March 1996 [LN 24/96]. It does not include amendments made since that date.

AN ACT TO MAKE PROVISION FOR THE ESTABLISHMENT OF A WATER AUTHORITY FOR SOLOMON ISLANDS, TO PROVIDE FOR THE PROPER MANAGEMENT AND DEVELOPMENT OF URBAN WATER RESOURCES AND SERVICES AND SEWERAGE SERVICES IN SOLOMON ISLANDS AND FOR OTHER MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

SOLOMON ISLANDS WATER AUTHORITY ACT (CAP. 130)

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PART I PRELIMINARY

1 Short title

This Act may be cited as the *Solomon Islands Water Authority Act*.

2 Application of Act

The provisions of this Act shall apply to the whole of Solomon Islands, or to such areas or parts of Solomon Islands as the Minister may, from time to time prescribe by Order.

3 Interpretation

(1) In this Act unless the context otherwise requires:

“additional works agreement” means an agreement entered into under section 20;

“approval” in relation to Part III, means an approval to develop land given by an appropriate body;

“area”, in relation to the Authority, means the area of operations of the Authority;

“authorised person” means an employee or other person acting on behalf of the Authority;

“Board” means the Board of the Authority established under section 6;

“catchment area” means an area of land declared by an order in force under section 18 to be a catchment area;

“charging period”, in relation to the Authority, means a period declared by an order in force under section 22 to be a charging period for the Authority;

“compliance certificate” means a certificate referred to in section 21;

“Council” means a Provincial Government of a province or the Honiara Town Council, as the case may be and includes an area council;

“developer” means a person to whom an approval to which Part III applies has been given;

“development”, in relation to land, means:

- (a) the erection of a building on the land;
- (b) the carrying out of work in, on, over or under the land;
- (c) the use of the land or of a building or work on the land; or
- (d) the subdivision of the land;

“land” includes an easement or right over, through or above any land;

“member” means a director of the Board of the Authority;

“meter” includes any measuring device;

“Minister” means the Minister who for the time being is charged with responsibility of administering urban water supply;

“owner” shall have the meaning ascribed to it in the *Land and Titles Act*;

“public road” means a road the public are entitled to use, whether or not it is declared as a public road under the *Roads Act* or any Provincial Ordinance;

“service charge” means:

- (a) a water service charge;
- (b) a sewerage service charge;

- (c) a loan service charge;
- (d) a development works service charge; or
- (e) a special industry service charge, that may be levied under Part IV;

“special industry” means an industry declared by an order in force under section 22 to be a special industry;

“work or works”, include:

- (a) water mains and water headwork;
- (b) sewer mains and sewage treatment works; and
- (c) any works ancillary to the works referred to in paragraphs (a) or (b).

(2) A reference in this Act to:

- (a) the erection of a building includes a reference to the rebuilding of, the making of structural alterations to, or the enlargement or extension of, a building or the placing or relocating of a building on land; and
- (b) the carrying out of a work includes a reference to the rebuilding of, the making of alterations to, or the enlargement or extension of, a work; and
- (c) a work includes a reference to any physical activity in relation to land that is specified by a regulation to be a work for the purpose of this Act; and
- (d) the subdivision of land is a reference to:
 - (i) (without limiting the following provisions of this paragraph) the subdivision of land within the meaning of the provisions of the *Land and Titles Act*; or
 - (ii) any other division of land into two or more parts which, after the division, would be obviously adapted for separate occupation, use or disposition; or

- (iii) the redivision of land, by such a subdivision or by any other division, into different parts which, after the redivision, would be obviously adapted for separate occupation, use or disposition; or
- (e) the carrying out of development includes a reference to the erection of a building, the carrying out of work, the use of land or of a building or work, or the subdivision of land, as the case may require.

4 Objects

- (1) The objects of the Authority shall be:
 - (a) to ensure that water resources allocated for urban water supply are properly managed, distributed, allocated and used in ways which are consistent with proper water management practices;
 - (b) to provide water and related services to meet the needs for users in a commercial manner consistent with the overall policies of the Government.
- (2) In exercising its functions, the Authority may have regard to such matters as it considers would be appropriate for the attainment of its objects including, but without limiting the generality of the foregoing:
 - (a) promotion of efficient use of urban water resources;
 - (b) the necessity for integrated catchment management and planning of land use and the use of urban water resources;
 - (c) public interest and community needs;
 - (d) conservation of urban water resources;
 - (e) pollution control and prevention; and
 - (f) efficient use of human, material and financial resources.

PART II ESTABLISHMENT OF THE AUTHORITY, MANAGEMENT, FUNCTIONS AND POWERS

5 Establishment of the Authority

- (1) There shall be established for the purpose of this Act, a body to be known as Solomon Islands Water Authority (hereinafter referred to as the Authority) which shall be a body corporate to which the provisions of Part VII of the *Interpretation and General Provisions Act* shall apply.
- (2) The provisions of the First Schedule shall have effect as to the constitution of the Authority and otherwise in relation thereto.

6 Establishment of the Board of Directors

- (1) There shall be established for the purposes of this Act, a Board of Directors of the Authority which shall, subject to the provisions of this Act, be responsible for the policy and general administration of the affairs of the Authority.
- (2) The provisions of the Second Schedule shall have effect as to the constitution of the Board and otherwise in relation thereto.

7 Functions of the Authority

The functions of the Authority shall be:

- (a) to control, regulate, develop, manage, conserve and utilise urban water resources in the best interests, of Solomon Islands;
- (b) to formulate national policies relating to the control and use of urban water resources;
- (c) to ensure that the water supplied for consumption meets the prescribed water quality standards;
- (d) to provide, construct, operate, manage and maintain, buildings, works, systems and services for impounding, conserving and supplying water for domestic, industrial, commercial and other purposes;

- (e) to provide, construct, operate, manage and maintain buildings, works, systems and services for the conveyance, treatment and disposal of sewage, disposal of trade and industrial waste and other connected purposes; and
- (f) any other like function.

8 Power of Minister to issue directions

The Minister may after consultation with the Chairman, give to the Authority such directions of a general character as to the policy to be followed by the Authority in the performance of its functions as appear to the Minister to be necessary, and the Board shall give effect thereto.

9 Declaration of area of operation

- (1) The Minister may by Order published in the *Gazette* declare the whole of Solomon Islands or any part thereof to be an area of operation for the purposes of this Act.
- (2) Where the Minister declares, an area of operation pursuant to the provisions of subsection (1), the Order may specify the functions which the Authority may exercise in respect of the area of operation.

10 Powers of the Authority

- (1) Subject to the provisions of subsections (2) and (3), the Authority shall have powers to do anything which is calculated to facilitate the discharge of its functions, or is incidental or conducive to their discharge.
- (2) In particular, and without prejudice to the generality of the provisions of subsection (1), the Authority may:
 - (a) acquire, hold and dispose of movable and immovable property;
 - (b) act as agent for other persons or appoint agents on its behalf;
 - (c) enter into agreements or arrangements with any person or institution, whether, national or international, providing participation, assistance or co-operation with its activities;

- (d) establish and maintain funds to meet contingencies and for such other purposes as it may think fit; and
 - (e) generate revenue by levying and recovering charges, fees, rates and capital contributions.
- (3) Subject to the provisions of this Act and to the approval of the Minister, the Authority may:
- (a) form subsidiary companies, enter into partnership or joint ventures to carry on any activities which the Authority has power under this Act to carry on;
 - (b) enter into any commercial operations in respect of its activities, services or products; and
 - (d) effect and maintain or contribute to insurance schemes.

11 Powers of entry to carry out works

- (1) The Authority may, by its employees and authorised persons:
- (a) enter and occupy land and there exercise any of its functions, including the carrying out of any work on, below or above the surface of the land;
 - (b) divert water from, or alter the course of a stream, river or waterway; and
 - (c) impound or take water on, in or under the surface of any land.
- (2) The power conferred by this section is sufficient authority for such employees or authorised persons to enter or occupy land or any part of a building (except an enclosed part occupied as a separate dwelling) in the exercise of the Authority's functions during daylight for the purpose of:
- (a) reading a meter; or
 - (b) ascertaining whether trade waste is present or is being (or has recently been) discharged to a work of the Authority,

unless the employee or authorised person is refused access by the

lawful occupier of the land.

- (3) The Authority may, in accordance with the regulations, attach a ventilating shaft, pipe or tube for a sewer to the wall of a building.
- (4) The Authority may remove or use anything dug up or obtained in the exercise of its powers under this section.
- (5) The Authority shall:
 - (a) do as little damage as practicable in exercising its powers under this section; and
 - (b) compensate all persons who suffer damage by the exercise of the powers,

in relation to the land entered.

12 Assessment and payment of compensation for damage caused by works, etc.

- (1) Subject to the provisions of this Part, every person whose land has been used in laying down pipes, carrying out any works or for any other purposes of this Act shall be entitled to reasonable compensation for any damage sustained by him by reason of such use of his land, such compensation shall be ascertained and awarded in the following manner:
 - (a) by way of reinstatement, repair, construction of works; or
 - (b) by way of payment of money:

Provided, however, that where the Authority provides a sewer, compensation shall be payable only if such construction of a sewer causes damage to or interference with an existing building or structure.

- (2) In all instances in which compensation is claimed it shall be lawful for the Authority, to agree with the claimant for the payment of such sums of money by way of compensation as the Authority may think reasonable.
- (3) A claim for compensation under this section shall not be effective

unless such claim is made in writing not later than six months after the damage was suffered.

13 Powers of entry on land for inspections

- (1) Subject to the provisions of subsections (2) and (3), the Authority may by its employees or authorised persons enter:
 - (a) at any time any land or building other than a dwelling-house;
 - (b) a dwelling-house at a reasonable time during daylight.
- (2) The Authority shall not exercise the powers conferred by subsection (1) except for the purpose of ascertaining:
 - (a) the character and condition of the land or building;
 - (b) the condition or location of any pipe, sewer, drain, channel, fitting or other work used in connection with the land or building;
 - (c) whether any use, consumption, waste, misuse or undue consumption of water supplied by the Authority is occurring; or
 - (d) whether any offence against this Act has been or is being committed.
- (3) The Authority shall not exercise the powers conferred by subsection (1) unless reasonable written notice of its intention to do so has first been given to the owner or occupier of the land, building or dwelling-house.
- (4) The Authority may, by notice in writing given to the owner or occupier of the land or building, require all defective or improper work discovered on an inspection to be repaired, altered or removed within twenty-four hours or such longer period as is stated in the notice.
- (5) If a notice under subsection (4) is not complied with, the Authority may, by its employees or authorised persons, enter the land, building or dwelling-house and repair, alter or remove the defective or improper work.
- (6) The costs and expenses incurred by the Authority pursuant to the exercise of its powers under subsections (4) or (5), as the case may

be, shall be recoverable from the owner or occupier as a service charge.

- (7) If, on an inspection under this section:
- (a) no defective or improper work is discovered;
 - (b) no waste, misuse or undue consumption of water supplied by the Authority is occurring; or
 - (c) there is no breach of any provisions of this Act, the Authority shall make good any damage or disturbance caused by it for the purposes of the inspection.
- (8) In exercising its powers under this section, the Authority shall do as little damage as practicable.

14 Power to open up roads and streets

- (1) For the purposes of performing its functions, the Authority may, on giving reasonable notice to the appropriate government Ministry or other body exercising control or management over any public road, street or public reserve, open or break up:
- (a) such road, street, public reserve or pavements; or
 - (b) any sewer, drain, tunnel or pipe under such road, street, public reserve or pavements.
- (2) On completion of any works conducted by the Authority pursuant to the exercise of its powers under subsection (1), the Authority shall as soon as practicable restore the surface of such road, street, public reserve or pavement to the condition or order as it was previously.

15 Altering position of conduit

- (1) If:
- (a) the Authority, in order to exercise its functions, needs an alteration to be made in the position of a conduit owned by another person; and
 - (b) the alteration would not permanently damage the conduit or

adversely affect its operation,

the Authority may serve on the person a written notice that complies with subsection (2).

- (2) A notice referred to in subsection (1) shall:
 - (a) specify the alteration needed;
 - (b) require the alteration be made within a reasonable time stated in the notice; and
 - (c) include an undertaking by the Authority to pay reasonable cost of the alteration.
- (3) If the alteration is not made in accordance with the notice, the Authority may make the alteration in such a manner as not to damage the conduit permanently or adversely affect its operation on completion of the alteration.
- (4) In this section, “**conduit**” means anything that is in or under a public road or street and is used for the conveyance of a substance, energy or signal.

16 Obstruction of works

If a person places a structure or other object in or near any work of the Authority in such a manner as to interfere with the work, the Authority may demolish or remove the structure or other object, repair and restore the work and recover the cost of doing so as debt owing to the Authority by the person who placed the structure or other object there.

17 Finding source of pollution of water supply

- (1) Where the water being supplied by the Authority is suspected as being interfered with so as to cause pollution, the Authority may for the purpose of carrying out an investigation, after due notice to persons likely to be affected, open, break or dig any public or private road or street or any ground.
- (2) Where on completion of the investigation it is found that the person to whom notice was given under subsection (1) was not responsible

for the interference or pollution of the water, the Authority shall restore the surface dug or damaged to the condition or order as it was previously and repair any other damage caused by its operations.

- (3) Where on completion of the investigation it is found that the person to whom notice was given under subsection (1) was responsible for the interference or pollution of the water, the Authority may recover from such person the costs incurred in such investigation.

18 Declaration of catchment area

- (1) Where the Minister on the recommendation of the Authority considers that it is appropriate with a view to preventing, controlling, prohibiting or restricting the carrying out in a particular area from which urban water supply may be extracted, such activities which are considered likely to result in pollution of, or interference with the proper use, flow or control of water, he may make an Order declaring such area as a catchment area and specify in such Order activities which are prohibited or restricted.
- (2) Where an order under subsection (1) declaring a specified area as a catchment area has been made no person or in the case of Government owned land no government body shall in that declared area carry on any prohibited or restricted activity without first obtaining written permission from the Minister.
- (3) On application being made to the Minister in the prescribed manner the Minister may either refuse the request or permit such activities subject to such restrictions as he may deem appropriate.

19 Compensation

Where an Order made under section 18, affects any land owner, person or group of persons, interests in land, the Authority may enter into negotiations with a view to paying compensation for any loss that such landowners or person or groups of persons may suffer as a result of the restrictions or prohibitions specified in the Order.

PART III CONSTRUCTION OF WORKS

20 Contracts for the construction of additional works

- (1) The Authority may enter into an agreement with the owner of any land providing for the construction of such works as may be specified in the agreement.
- (2) Such an agreement may provide for:
 - (a) the payment to the Authority by the owner of the land:
 - (i) of the whole of the cost of the construction of the works referred to in the agreement; or
 - (ii) of such part of that cost as, in the opinion of the Authority, is reasonable, having regard to the benefit of the works to that land and any other land that may in the opinion of the Authority, be capable of being served by those works; and
 - (b) such other matters as may be prescribed or agreed upon between the Authority and the owner of the land.
- (3) Any works constructed under such an agreement shall be the property of the Authority.

21 Certificate of Compliance

- (1) On obtaining the necessary approval referred to in this Part, the developer may make application in the prescribed form to the Authority for issue of a Certificate of Compliance.
- (2) The Authority may by regulations prescribe:
 - (a) the procedure for the application by a developer for the issue of the Certificate of Compliance;
 - (b) the requirements to be satisfied in respect of that Certificate of Compliance; and
 - (c) the form and contents of the Certificate of Compliance.
- (3) Where the Authority is satisfied that the requirements prescribed by

regulations made under this section have been complied with it may enter into any agreement with such developer and issue to him a Certificate of Compliance.

22 Orders for service charges

The Minister may, by Order published in the *Gazette* for the purposes of service charges declare:

- (a) any land described in the Order to be a development area;
- (b) any industry specified in the Order to be a special industry; or
- (c) successive periods (whether or not of the same duration) to be charging periods.

23 Water main and sewer connections

- (1) The Minister may by regulations prescribe the requirements and the procedure for the providing of water mains and sewer mains to any land or premises.
- (2) The Authority may by notice declare water mains and sewer mains available for connection.

PART IV SERVICE CHARGES

24 Authority may levy service charges and impose fees and other charges

- (1) The prices to be charged by the Authority for the supply of services specified in subsection (3) shall be in accordance with such tariffs as may, from time to time, be fixed by the Minister on the recommendation of the Authority.
- (2) In making its recommendation to the Minister as required in subsection (1), the Authority shall take into consideration the matters specified in this Part.
- (3) The charges referred to in subsection (1) shall be in respect of:
 - (a) water service;

- (b) sewerage service;
 - (c) loan service;
 - (d) developmental works service; and
 - (e) special industry service,
- on land within its area.

- (4) The Authority may, in accordance with the regulations impose fees and charges for any service or thing supplied or provided by it in the exercise of its functions under this Act.

25 Land in respect of which the Authority may levy service charges

- (1) The Authority may only levy water service charges on land:
 - (a) to which water is supplied; or
 - (b) to which, in the opinion of the Authority, it is reasonably practicable for water to be supplied, from one of the Authority's water mains.
- (2) The Authority may only levy sewerage service charges on land:
 - (a) from which sewage may be discharged; or
 - (b) from which, in the opinion of the Authority, it is reasonably practicable for sewage to be discharged, into one of the Authority's sewer mains.
- (3) The Authority may only levy developmental works service charges on land within a development area.
- (4) The Authority may only levy special industry service charges on land on which a special industry is conducted.
- (5) The Authority may not levy service charges in respect of any land exempted by the Minister by Order made and published in the *Gazette*.

26 Classification of lands

- (1) The Authority shall specify by regulations the factor or factors according to which the Authority may classify lands for the purpose of levying service charges.
- (2) Without limiting the generality of subsection (1), the regulations may specify that the Authority may classify land according to any one or more of the following factors:
 - (a) the purpose for which the land is actually being used;
 - (b) the intensity with which the land is being used for the purpose;
 - (c) the purpose for which the land is capable of being used;
 - (d) the nature and extent of the water and sewerage services connected to the land.
- (3) For the purposes of subsection (2)(c), land is not capable of being used for a purpose if the use of the land for that purpose would be in contravention of any Act or law relating to the use of land.

27 Basis of levying service charges

- (1) The basis or the criteria on which the Authority may levy service charges shall be as prescribed by regulations made by the Minister.
- (2) Without limiting the generality of subsection (1), the regulations may specify that the Authority may levy service charges according to any one or more of the following basis:
 - (a) the nominal size (as determined in accordance with the regulations) of the water service pipe supplying water to the land;
 - (b) the nominal size (as determined in the regulations) of the sewerage service pipe discharging sewage from the land;
 - (c) the area of the land.

28 Determination by Authority

- (1) Before the end of each charging period the Authority shall, in accordance with the regulations, determine:
 - (a) the amount of money that it proposes to raise by way of service charges levied on land within its area;
 - (b) the factor or factors according to which land within its area is to be classified for the purpose of levying service charges;
 - (c) the basis or bases according to which service charges are to be levied; and
 - (d) the rate at which service charges are to be levied on, or the maximum or minimum service charges that are applicable to land within its area of operation,for the next succeeding charging period.
- (2) In making a determination under this section, the Authority may have regard to:
 - (a) its estimation of the degree of benefit that accrues to land in respect of each service for which the charge is to be levied;
 - (b) its estimation of the degree to which each service is or may be used in relation to land in respect of which the charge is to be levied;
 - (c) its estimation of the cost involved in the construction, maintenance and operation of each service for which the charge is to be levied; and
 - (d) such other matters as it considers relevant to the levying of charges for each such service.
- (3) A determination under this section:
 - (a) is required to be approved by the Minister and does not have effect unless it is so approved;
 - (b) shall be published in the *Gazette* before the commencement of

the charging period to which it relates; and

- (c) shall take effect on the commencement of the charging period to which it relates.
- (4) A determination does not fail merely because it is not published in the *Gazette* before the commencement of the charging period to which it relates but, in that event, no person is liable for payment of the service charges to which the determination relates until the determination is published in the *Gazette*.
- (5) A service charge determined under this section is levied on publication of the determination in the *Gazette*.
- (6) If, for any reason:
 - (a) a determination under this section is not made before the charging period to which it relates; or
 - (b) there is any irregularity or alleged irregularity in the making of any such determination,

the Minister may extend the time for making the determination (whether or not the time has expired) and may authorise the Authority to do anything necessary to remedy any irregularity and make a valid determination.

29 Assessment of service charges

- (1) After making a determination under section 28, the Authority shall, in accordance with the determination:
 - (a) classify each parcel of land within its area in respect of which a service charge is to be levied; and
 - (b) assess the service charges payable for each such parcel of land.
- (2) After it makes an assessment under this section, the Authority shall, in accordance with the regulations, cause a notice to be served on the owner of each parcel of land in respect of which a service charge has been levied.

- (3) Such a notice shall include information as to:
- (a) the factor or factors according to which the parcel of land has been classified for the purpose of levying of service charges;
 - (b) the basis or bases according to which service charges have been levied in respect of the parcel of land;
 - (c) the rate at which service charges have been levied on, or the maximum or minimum charges that are applicable to, the parcel of land; and
 - (d) the amounts payable in respect of each service charge that has been levied in respect of the parcel of land.
- (4) Upon service of such a notice, the owner of the land to which the notice relates shall become liable for the payment of the service charges specified in the notice.

30 Certain charges to be a charge on the land

- (1) A service charge for payment of which a person is liable is a charge on the land to which the service charge relates.
- (2) A charge imposed under section 24(4) for a service or thing supplied or provided in connection with the occupation of land is a charge on the land.

31 Interest on overdue service charges, etc.

The Authority may charge interest on overdue fees, service charges and other charges at a rate not exceeding the rate prescribed and provided for in regulations.

PART V FINANCIAL

32 Funds and resources of the Authority

The funds and resources of the Authority shall consist of:

- (a) such sums as may from time to time be provided by Parliament out of the Consolidated Fund;

- (b) such sums of money as may be raised from time to time under Part III;
- (c) all moneys received from investments under section 33;
- (d) such moneys borrowed by way of loans or overdrafts under section 34; and
- (e) all other sums or property which may in any manner become payable to or vested in the Authority in respect of any matter incidental to its functions under this Act or any other law.

33 Investments

Moneys standing to the credit of the Authority may from time to time be invested in securities approved either generally or specially by the Minister.

34 Loans or overdrafts

The Authority may borrow by way of loan or overdraft such sums of money it deems fit not exceeding an amount approved by the Minister.

35 Government guarantees on borrowing from international or foreign organisations

- (1) The Government may guarantee on such terms and conditions as it may determine, loans raised by the Authority from any international or foreign organisation approved by the Government.
- (2) All sums payable by the Government under any guarantee given under subsection (1) are hereby charged on the Consolidated Fund.

36 Exemption from taxation and stamp duty

- (1) The income and revenue of the Authority shall not be subject to taxation under any law.
- (2) All instruments executed by or on behalf of the Authority shall be exempt from stamp duty.

37 Exemptions from customs duty

No customs or other duty shall be payable upon any machinery or equipment imported into Solomon Islands or taken out of bond in Solomon Islands, by the Authority and shown to the satisfaction of the Comptroller of Customs and Excise to be required solely for the purpose of performing the functions of the Authority under this Act.

38 Customs duty to be paid in certain circumstances

Any machinery or equipment imported into Solomon Islands or taken out of bond in Solomon Islands, free of customs duty or in other similar duty pursuant to the provisions of section 37 shall not without the prior approval in writing of the Comptroller of Customs and Excise be sold or given away at any time within the period prescribed by the Comptroller of Customs and Excise, unless at the time when that machinery or equipment is sold or given away the Comptroller of Customs and Excise is paid such sums which would have been payable in respect of customs and other similar duties in respect of the importation or the taking out of bond in Solomon Islands of that machinery or equipment if it had not been for this section.

39 Annual Report

The Authority shall, before the expiration of six months after the end of the financial year, submit to the Minister a report of its activities during the preceding financial year, and the Minister shall lay before Parliament a copy of the annual report.

40 Accounts and audit

- (1) The Authority shall keep proper accounts and other records in respect of its operations, and shall cause to be prepared an annual statement of accounts in respect of each financial year.
- (2) The accounts of the Authority shall be audited annually by an auditor appointed by the Authority and approved by the Auditor-General.
- (3) After the end of each financial year, as soon as the accounts of the Authority have been audited, the Authority shall cause a copy of the statement of accounts to be transmitted to the Minister, together with a copy of any report made by the auditor on that statement or on the

accounts of the Authority and such explanation of any matters referred to in the auditor's report as may be necessary.

- (4) The Minister shall cause a copy of the annual statement of accounts together with the auditor's report to be laid before Parliament.

41 Recovery of fees, charges and other money

- (1) Any charge, fee or money due to the Authority under this Act may be recovered in any court of competent jurisdiction as if it were as debt due to the Government.
- (2) An unsatisfied judgment or order of any court for the recovery of any charge or fee from any person shall not be a bar to the recovery of the charge or fee from any other person who is liable under this Act for the payment of the charge or fee.

42 Certificate as to amount due

- (1) The Authority shall, upon written application being made to it and on payment of the fee determined by the Authority, issue to the applicant a certificate:
 - (a) containing particulars of any amounts payable to the Authority in respect of a parcel of separately assessed land; or
 - (b) to the effect that no moneys are due to the Authority.
- (2) An application for a certificate shall:
 - (a) specify the name and address of the applicant; and
 - (b) identify the land to which the application relates.
- (3) Such a certificate is conclusive proof, in favour of a purchaser in good faith and for value of the land to which the certificate relates, that, at the date of its issue, no amounts were payable to the Authority in respect of that land other than such amounts as are specified in the certificate.

43 Inspection of Council records

A Council shall permit an authorised person, at any reasonable time

and without charge, to inspect valuation reports or rate or assessment records kept by that Council and make or obtain a copy of, or extract from, the records.

44 Transitional provisions - Survival of unpaid accounts

Any amount that was due but unpaid to the Ministry of Transport, Works and Utilities immediately before the commencement of this Act, including any amount that was charged on the land to which the charge relates shall continue to be due and payable and, where applicable, remains a charge on the land until the amount is paid.

PART VI OFFENCES

45 Illegal diversion of water

- (1) A person shall not wrongfully take, use or divert any water from which the Authority draws its supply or that is available for supply by the Authority.
- (2) Any person who contravenes the provisions of subsection (1) shall on conviction be liable to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding five years or to both such fine and imprisonment.
- (3) It shall be presumed, unless the contrary is proved, that any wrongful taking or diversion of water to, or any wrongful use of water on, any land was at the direction, or with the connivance, of the owner or occupier of the land.

46 Tampering with meter

- (1) A person shall not wrongfully alter the index of a meter or prevent a meter from duly registering the quantity of water supplied.
- (2) If, in connection with the pipes or other apparatus of the Authority used to supply water to any land, there exists any artificial means for:
 - (a) taking, using or diverting the water; or
 - (b) altering the index of a meter or preventing it from duly

registering the quantity of water supplied,

it shall be presumed, unless the contrary is proved, that the taking, use, diversion, alteration or prevention was wrongfully effected or caused by the occupier of the land.

- (3) Any person who contravenes the provisions of subsection (1) shall on conviction be liable to a fine not exceeding five hundred dollars or to a term of imprisonment not exceeding six months or to both such fine and imprisonment.

47 Damage to works

- (1) A person shall not willfully or negligently interfere with, destroy or damage a work or structure that belongs to, or is under the control and management of, the Authority.
- (2) Any person who contravenes the provisions of subsection (1) shall on conviction be liable to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding five years or to both such fine and imprisonment.

48 Obstruction of the Authority

- (1) A person shall not:
 - (a) wilfully delay or obstruct the Authority or an authorised person exercising a function under this Act;
 - (b) threaten or abuse a person exercising functions under this Act;
or
 - (c) wilfully remove any poles or stakes driven into the ground, or wilfully deface or destroy any mark made, by the Authority in connection with its work.
- (2) Any person who contravenes any provisions of subsection (1), shall on conviction be liable to a fine not exceeding two thousand dollars or to imprisonment for one year or to both such fine and imprisonment.

49 Obstruction of works

- (1) A person shall not place a structure in or near any work of the Authority in such a manner as to interfere with the operation of the work.
- (2) Any person who contravenes any provisions of subsection (1), shall on conviction be liable to a fine of not exceeding one thousand dollars or a term of imprisonment not exceeding one year or to both such fine and imprisonment.

50 Exposure of underground pipes

- (1) A person shall not, by opening any ground, expose any pipe or other work of the Authority:
 - (a) without lawful excuse; or
 - (b) without having given the Authority at least 2 days' written notice of the intention to open the ground.
- (2) Any person who contravenes the provisions of subsection (1) shall on conviction be liable to a fine not exceeding five thousand dollars or a term of imprisonment not exceeding two years or to both such fine and imprisonment.

51 Work done by unlicensed person

- (1) A person shall not undertake or do any work which would have the effect of directly or indirectly connecting any water supply from the mains or disposing of sewage to the sewers, maintained by the Authority, unless such person:
 - (a) holds a licence issued by the Authority; or
 - (b) does the work under the immediate supervision of the holder of such licence.
- (2) Any person who contravenes the provisions of subsection (1) shall on conviction be liable to a fine not exceeding two thousand dollars or to a term of imprisonment not exceeding one year or to both such fine and imprisonment.

PART VII MISCELLANEOUS

52 Provisions of section 35 of Chapter 85 to mutatis mutandis apply to delegation

The provisions of section 35 of the *Interpretation and General Provisions Act* shall *mutatis mutandis* apply to any delegation of functions made by the Authority or the General Manager, and accordingly for the purposes of this Act, the words “public authority” appearing therein shall be deemed to include “the Authority” and “the General Manager” as the case may require.

53 Negotiation for purchase of land

- (1) Where any land is required for the purposes of the Authority, the Authority shall enter into negotiations with the land owners or any person or group of persons having an interest in the land and make arrangements for the payment of compensation.
- (2) Where there is no dispute and agreement is reached pursuant to subsection (1), such agreement shall be reduced to writing and a copy of such agreement shall be transmitted to the Provincial Secretary or other responsible officer of the Council.

54 Compulsory acquisition

- (1) Where there is no prospect of the negotiations provided for in section 53 being concluded on a basis acceptable to the parties, or where the delay in arriving at a satisfactory settlement is not in the public interest the Minister charged with responsibility for the *Land and Titles Act*, may require the Commissioner of Lands to exercise the powers conferred by Division 2 of Part V of the *Land and Titles Act* and any other power vested in that behalf.
- (2) Where any land is compulsorily acquired pursuant to subsection (1), such purpose shall in relation to the exercise of any such powers be deemed to be in the public interest.

55 Council rates

- (1) Any land vested in the Authority is exempt from any rates that a Council may levy.

- (2) A tunnel, water or sewer main of the Authority is exempt from any rental charge that a Council may levy.

56 Land tax

Land that is vested in the Authority is exempt from any land tax that may be levied.

57 Regulations

- (1) The Minister may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting the generality of subsection (1), the regulations may make provision for or with respect to:
- (a) fees, service charges and other charges, including charges for the abstraction or use of water;
 - (b) the manner in which service charges and other charges shall be levied, administered and regulated, including the procedure for appeal against such charges;
 - (c) development of land;
 - (d) the supply and use of water and without limiting the generality of subsection (3) creating offences relating to the contamination or pollution of water, whether or not while the water is being supplied or used;
 - (e) catchment areas, including the regulation or prohibition of abstracting, using, polluting or contaminating waters within catchment areas;
 - (f) classifying quality of water according to criteria specified in keeping with proper water management practices elsewhere;
 - (g) water and sewerage systems;
 - (h) trade wastes;

- (i) the opening of the surface of roads;
 - (j) public recreation; and
 - (k) the financial operations of the Authority.
- (3) Notwithstanding the provisions of section 66(1) of the *Interpretation and General Provisions Act* any regulation made under this section may provide that any person contravening any of the provisions of such regulations shall be liable to a fine not exceeding two thousand dollars or imprisonment for a term not exceeding two years or to both such fine and imprisonment.

58 Price Control Act not to apply

The *Price Control Act* shall not apply to charges imposed under Part IV of this Act.

59 Repeal and savings

- (1) The *Water Supply Act* (hereinafter referred to as the “repealed Act”) is hereby repealed.
- (2) Notwithstanding such repeal from and after the coming into operation of this Act:
 - (a) all property movable and immovable, owned by the Water Unit and used for the purposes of that Unit immediately prior to that date shall be transferred to and vest in the Authority without further assurance, and the Authority shall have all the powers necessary to take possession of, recover and deal with such property;
 - (b) all rights, powers, privileges and interests arising in or out of such property shall vest in the Authority and liabilities subsisting on that date shall be deemed to be liabilities of the Authority;
 - (c) all contracts and agreements entered into for the purposes of the Water Unit and subsisting on that date shall be deemed to be contracts and agreements entered into by the Authority;
 - (d) all actions and proceedings instituted by or against the Water Unit and pending on that date shall be deemed to be actions

and proceedings instituted by or against the Authority;

- (e) any officer of the Water Unit on that date who is not offered employment with the Authority or is not posted to any other division in the public service shall be deemed to have been terminated from service and the provisions of Part IX of the *Public Service Regulations 1979* shall *mutatis mutandis* apply.

FIRST SCHEDULE

THE SOLOMON ISLANDS WATER AUTHORITY

(Section 5)

1 Authentication

- (1) The seal of the Authority shall be authenticated by the signature of the Chairman or a member of the Board authorised to act in that behalf and an officer of the Authority so authorised.
- (2) All documents other than those required by law to be under seal, made by, and all decisions of the Authority may be signified under the hand of the Chairman or any member of the Board authorised to act in that behalf or an officer of the Authority so authorised.

2 Powers to appoint officers and employees

The Authority may appoint and employ at such remuneration and on such terms and conditions as it thinks fit:

- (a) a General Manager of the Authority; and
- (b) such other officers, agents and employees as it thinks necessary for the proper carrying out of its functions.

3 Expenses of the Authority

The expenses of the Authority (including remuneration of the staff thereof, the Chairman, and directors) shall be defrayed out of the income of the Authority.

4 Accounts, audit and estimates

The Authority shall keep proper accounts and other records in relation to its business and prepare annual statements of account and reports as set out in Part V of this Act.

5 Powers of the Minister require returns

The Authority shall furnish the Minister with such returns, accounts

and other information as he requires with respect to its activities, and shall afford to him the facilities for verifying such information in such manner and at such times as he may reasonably require.

6 Minister to review the operations of the Authority

At the end of each financial year, the Minister shall review the operations of the Authority with a view to determining:

- (a) whether the Authority has operated in accordance with the annual estimates and any approved operating plan; and
- (b) whether the assets of the Authority are sufficient to meet the liabilities of the Authority having regard to any claims or liabilities which may arise during the next ensuing year.

SECOND SCHEDULE

(Section 6)

THE BOARD OF DIRECTORS OF THE AUTHORITY

1 Board membership

- (1) The Board shall consist of the following members, namely:
 - (a) a Chairman appointed by the Minister;
 - (b) the Permanent Secretary of the Ministry charged with responsibility for the administration of urban water supply; and
 - (c) five members appointed by the Minister of whom two shall be public officers.
- (2) The General Manager of the Authority shall be an *ex officio* member of the Board.

2 Appointment of alternate Chairman

In the case of the absence or inability to act of the Chairman, the Minister may appoint any other person to perform the functions of the Chairman.

3 Tenure of office

- (1) The appointment of every member (other than *ex officio* members) shall be evidenced by instrument in writing, and such instrument shall state the period of office of the member, which shall not exceed two years.
- (2) Every member of the Board shall be eligible for re-appointment.
- (3) The Minister may at any time revoke the appointment of any member of the Board appointed by him.

4 Resignation

- (1) Any member of the Board other than the Chairman, may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the Chairman, and from the date of the receipt by the Minister of such instrument such member, shall cease to be a member of the Board.
- (2) The Chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of receipt of such instrument.

5 Publication

The names of all members of the Board as first constituted and every change in the membership thereof shall be published in the *Gazette*.

6 Vacation of office

Any member of the Board who:

- (a) is declared a bankrupt; or
- (b) is sentenced to imprisonment for three months or more for a criminal offence; or
- (c) without reasonable excuse fails to attend three consecutive meetings of the Board,

shall be immediately removed from the Board by the Minister.

7 Procedure, quorum and meetings

- (1) The Board shall meet at such times as may be necessary or expedient for the transaction of its business, so however, that it shall not be less than four meetings in any calendar year.
- (2) The Chairman may at any time call a special meeting of the Board and shall call a special meeting to be held within seven days of a written request for that purpose addressed to him by two or more members of the Board.
- (3) The Chairman shall preside at all meetings of the Board and in the case of absence of the Chairman from any meeting, subject to paragraph 2, the members present and forming a quorum shall elect one of their number to preside at the meeting.
- (4) The decision of the Board shall be by a majority of votes, and in addition to an original vote, the Chairman or any other person presiding at a meeting shall have a casting vote in any case in which the vote is equal.
- (5) The General Manager, and such other officers as the Chairman decides, shall attend meetings.
- (6) Minutes of each meeting of the Board shall be kept in a proper form.
- (7) The Board shall determine its quorum for any particular meeting.
- (8) The validity of any proceedings of the Board shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

8 Remuneration of members

There shall be paid to the Chairman and other members of the Board, such remuneration (whether by way of honorarium, salary or fees) and such allowances as the Minister may determine.

9 Protection of members

No action, suit or prosecution or other proceedings shall be brought

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against any member of the Board in respect of any act done *bona fide* in pursuance or execution or intended execution of the provisions of this Act.

10 Offices not public offices

The office of the Chairman or other members of the Board shall not be public offices for the purpose of Chapter XIII of the *Constitution*.

ENDNOTES

1

KEY

amd = amended	Pt = Part
Ch = Chapter	rem = remainder
Div = Division	renum = renumbered
exp = expires/expired	rep = repealed
GN = Gazette Notice	Sch = Schedule
hdg = heading	Sdiv = Subdivision
ins = inserted	SIG = Solomon Islands Gazette
lt = long title	st = short title
LN = Legal Notice	sub = substituted
nc = not commenced	

NOTE

This Reprint comprises the Act and amendments as in force on 1 March 1996 and published as Chapter 130 of the Revised Edition of the Laws of Solomon Islands.

2

LIST OF LEGISLATION

Solomon Islands Water Authority Act (Cap. 130)

Constituent legislation: 16 of 1992 (Commenced 17 May 1993)

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LIST OF AMENDMENTS