Commencement: 3 January 1955

CHAPTER 24

WATER SUPPLY

JR 1 of 1955
JR 5 of 1963
JR 11 of 1971
JR 53 of 1973
JR 11 of 1977
Act 9 of 1985
Act 9 of 1993
Act 28 of 1993

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WATER SUPPLY

To provide for connections to the public water supply, the regulation of the supply of water by pipe by Government and the maintenance and protection of the water supply undertaking.

PART 1 – CONNECTION TO THE WATER SUPPLY

1. Application for connection to water supply

Any person or group of persons (hereinafter referred to as "the applicant") being the owner or occupier of any immovable property and requiring such property to be connected to the public water supply may apply in writing to the Director of Public Works.

2. Connection to water supply

Subject to technical and material practicability the Public Works Department shall connect the property of the applicant to the water supply system on payment by him of the cost of any necessary extension from the water mains to the property to be served.

3. Extension to end at boundary of property

The extension shall end at the boundary of the property to be served at which point shall be placed the water meter of the Public Works Department. Any part of the supply system between the water mains and the meter shall thereafter be deemed to belong to the Public Works Department, and any part beyond the meter the property of the applicant.

4. Cost of extension

The cost of extension shall be calculated on the basis of the actual cost of labour and materials used in the extension and any alterations required to the supply system to permit the extension; to this amount shall be added a surcharge of 25 per cent to cover the cost of supervision and overheads.

5. Payment of deposit

Before work on the extension is commenced the applicant shall deposit with the Treasury an amount equal to 25 per cent of the estimated cost of extension as assessed by the Public Works Department. The applicant shall pay the balance within 3 months of the extension being completed, the date of completion being notified to the applicant by the Director of Public Works in writing.

6. Consequence of failure to complete payment

In the event of the applicant failing to complete payment within the prescribed time the Public Works Department may, without prejudice to the recovery of any amount due for labour used, disconnect the property and recover the materials used in the extension.

7. Bank guarantee required in certain cases

Before work is commenced on any extension estimated to cost more than VT 9,000 the applicant may be required to produce a bank guarantee or other acceptable security equal to the amount payable after completion of the extension.

8. Liability for cost of extension in event of change of ownership of property

If ownership of the property changes before the cost of extension is paid by the applicant the liability for any balance due shall remain with the applicant until the new owner of the property accepts liability in writing and produces security to the satisfaction of the Director of Public Works to replace any security given under section 7. On completion of payment any

rights over the extension arising under section 9 shall be deemed to belong to the owner of the property served by such extension.

9. Authority of owner required for connection of other persons within 5 years of extension

For a period of 5 years after the date of completion of any extension no other person shall be connected thereto unless authorised in writing by the owner or owners of the property or properties for which the connection was made under the provisions of section 2.

PART 2 – REGULATION OF THE SUPPLY OF WATER

10. Interpretation

In this Part, unless the context otherwise requires –

"consumer" means a person in occupation of any premises to which a water supply pipe and meter have been laid;

"Minister" means the Minister responsible for water supply;

"premises" means any land, building or other property to which a water supply pipe and meter have been laid;

"Director of Public Works" includes any person charged with the duties of that office.

11. Water charges

The charges in respect of water supplied by pipe to a consumer's premises shall be prescribed by Order made by the Minister.

12. Meter readings

(1) All water registered on a meter shall be held to have been consumed by the consumer and meter readings shall be taken by a person authorised in writing by the Director of Public Works for that purpose:

Provided that in the event of the consumer's meter breaking down or being defective during any quarter, his consumption may be determined by the person authorised to read meters by averaging the consumer's consumption over 4 previous quarters. If the consumer has occupied the premises for less than 4 quarters, consumption shall be determined by averaging his consumption over his period of occupation.

(2) An account shall be sent in the months of April, July, October and January to each consumer, and, subject to the provision of section 13, a consumer shall, within 1 month of the receipt of such account, pay to the Government the sum stated to be due.

13. Objections to accounts

Should a consumer object to an account he may within 7 days of receipt of such account present his objections in writing to the Director of Public Works whose decision as to the amount due shall be final. Failure to object within the prescribed period shall be held to constitute an admission by the consumer of the correctness of the account.

14. Disconnecting water supply in case of non-payment of account

In the event of a consumer failing to pay an account within the period specified in section 12, or, if he shall have lodged an objection to such account in accordance with the provisions of section 13, within 1 month of the communication to him of the decision of the Director of Public Works, the Government may at the cost and expense of the consumer disconnect the supply pipes to the premises of the consumer and discontinue the supply of water to him without prejudice to the rights of the Government to recover from the consumer any sums

due by him in respect of water supplied to him and in respect of meter rental and the cost and expense of such disconnection.

15. Ownership and responsibility for maintenance of apparatus

The Government shall retain the ownership of, and subject to the provisions of section 17 shall be responsible for the maintenance of, all supply pipes, valves and other apparatus, including the meter, supplied by it. All connections, fittings and other apparatus used in carrying water from a meter to the consumer shall be provided by the consumer at his expense:

Provided that any connection to a meter shall be made only by the Director of Public Works or a person authorised by him to make such connection.

16. Offences

Any person who wilfully or fraudulently or by culpable negligence suffers to be injured or altered any water line or fire hydrant, valve, meter, fittings, apparatus or works belonging to the Government or alters the index of any meter or prevents any meter from duly registering the quantity of water supplied or fraudulently abstracts or uses water supplied by the Government shall be guilty of an offence and shall on conviction be liable to a penalty not exceeding VT 20,000, or to imprisonment for a term not exceeding 1 month, and the court in imposing such penalty may, in addition, order such offender to sustain the cost of any damage so caused and to pay the Government any charges which by virtue of the offence it may assess the Government to have lost.

17. Government not liable for failure to supply water

The Government shall not be liable to any person by reason of any partial or total failure of the supply of water from any cause whatsoever, and may at any time temporarily discontinue the supply of water whenever in the opinion of the Director of Public Works such discontinuance is desirable for the purpose of ensuring the efficient operation of any works under the Government's control or for the purpose of conserving water resources.

18. Disconnection of water supply from premises vacated without notice

If a consumer vacates any premises without giving prior notice in writing to the Director of Public Works, the Director may cause the disconnection of the water supply to such premises, and the consumer shall be held liable for the payment of any charges registered on the meter when the meter reading is taken and for the cost and expense of any disconnection of supply.

19. Examination of installation

The Director of Public Works shall be entitled to examine any installation provided by the consumer and connected to the water supply, and for that purpose shall have the right to enter any premises to which a water supply pipe and meter have been laid.

20. Regulations

(1) The Minister may by Order make regulations not inconsistent with this Act for the better carrying out or giving effect to the provisions of this part of this Act.

(2) Without derogating from the generality of subsection (1) the Minister may in such Order provide for –

(a) charges payable by consumers;

(b) charges payable for the supply of water to ships berthing in the ports of Port Vila and Luganville;

(c) the payment of deposits by consumers;

(d) the general conditions under which water is supplied.

PART 3 – AGREEMENT OR CONTRACT FOR THE PROVISION, DEVELOPMENT, MANAGEMENT AND MAINTENANCE OF WATER SUPPLY WITHIN AREA OF CONCESSION

21. Interpretation

In this Part unless the context otherwise requires –

"area of concession" means the area consisting of the Port Vila Municipality and any part of the Efate Local Government Council region prescribed by the Minister by order;

"Commission" means the Compensation Commission appointed under section 28 of this Part;

"Concessionaire" means any body of persons or entity who holds the sole concession for the provision, development, management and maintenance of water supply within the area of concession pursuant to an agreement entered into by that body of persons or entity with the Minister under section 22 of this Part;

"Minister" means Minister responsible for water supply;

"Port Vila Municipality" means the area declared by the Minister by order made under the Municipality Act [Cap. 126] to be Port Vila Municipality;

"water main" means any pipe of whatever material used for the purpose of the distribution of the public water supply and includes any valves, chambers, meters, fire hydrants, access shafts and such other fittings as may be necessary for the proper functioning of the system of public water supply.

22. Agreement or contract granting the sole concession to supply water within area of concession

(1) Notwithstanding anything to the contrary in Parts 1 and 2 of this Act or in any other Act, but subject to the provisions of this Part, it shall be lawful for the Minister with the approval of the Council of Ministers to enter into an agreement or contract with any legal entity granting that entity the sole concession for the provision, development, management and maintenance of water supply to the public within the area of concession.

(2) The terms and conditions of any agreement or contract entered into under subsection (1) shall be subject to the provisions of this Part.

23. Transfer of the usage, management and maintenance of any Government water supply to the Concessionaire

The Minister shall by order provide for the usage, management and maintenance by the Concessionaire of water mains used by the Public Works Department with respect to the supply of water within the area of concession including any other moveable property of the Government required for the purposes of the concession.

24. Penalty for other persons providing the supply of water

Notwithstanding anything to the contrary in this Act or in any other Act, any person other than the Concessionaire who provides, supplies or manages public water supply within the area of concession shall be guilty of an offence and shall be liable on conviction to a fine not exceeding VT 20,000 or to imprisonment for a term not exceeding 1 month or to both such fine and imprisonment.

25. Powers and duties of the Concessionaire

In the exercise of the powers or the performance of the duties and functions under the provisions of this Act or pursuant to any agreement or contract entered into under section 22, it shall be lawful for the Concessionaire to exercise such powers, perform all such functions

or duties as are conferred on the Public Works Department or the Director of Public Works in respect of the water supply within the area of concession under the provisions of this Act or any other law.

26. General duties of the Concessionaire

It shall be the duty of the Concessionaire in the area of concession to –

(a) provide, develop, manage and maintain an efficient supply of water and distribute water for public, domestic or industrial purposes;

(b) provide the supply of water and distribute it or sell water in bulk or otherwise, to any Government depot or any other institution, organization, body of persons, any individual or ship;

(c) do all other acts and things as may be necessary for the purposes stated in paragraph (a) and (b).

27. Powers of the Concessionaire

The Concessionaire may exercise all or any of the following powers –

(a) to carry out investigations and to collect and record data concerning the provision, development, management and maintenance of water supply within the area of concession;

(b) to enter into and perform either directly or through duly authorised agents all such contracts as may be necessary for the performance of the duties and the exercise of the functions of the Concessionaire;

(c) to do anything necessary for the purposes of advancing the skill of persons employed by the Concessionaire or the efficiency of the equipment of the Concessionaire, or the improvement of the manner in which that equipment is operated;

(d) to conduct research into matters affecting the provision, development, management and maintenance of water supply within the area of concession;

(e) to do all other acts which in the opinion of the Concessionaire are necessary to facilitate the proper carrying on of the purposes of the Concession agreement or contract.

28. Compensation

(1) Every person who sustains any damage or loss of a certain and material nature by reason of the exercise of the powers, functions and duties conferred by sections 25, 26 or 27 of this Act or by authority of a concession contract or agreement may make application for compensation in writing in that behalf to the Concessionaire at any time before the expiration of 1 year after the act, matter or thing in respect of which such damage or loss is alleged to have been sustained and if he fails to make application within such period, his claim for compensation shall be barred.

(2) The amount of compensation if any, payable under the provisions of this Act shall, in default of agreement, be determined by a Compensation Commission, which shall consist of –

(a) the Mayor of the Port Vila Municipality, Chairman;

(b) the Director-General of Finance, member;

(c) the Director of Public Works, member;

(d) the Director of Geology & Mines, member; and

(e) two persons resident in the area affected and appointed by the Minister.

(3) The Commission shall hear the claimant and the Concessionaire either in person or by representation or if either shall so desire consider written submission in lieu thereof, and shall give its decision and the reasons therefore in writing.

(4) If the claimant is not satisfied by the decision of the Commission he may appeal to a competent court in order that the court may determine the amount of compensation to be awarded.

29. Damage to works

Any person who wilfully or negligently injures or damages or causes to be injured or damaged any water mains installed, constructed or maintained by the Concessionaire under the authority of a concession agreement or contract or the provisions of this Act, shall be guilty of an offence punishable by a fine not exceeding VT 30,000 or to imprisonment for a term not exceeding 3 months, or by both such fine and imprisonment.

30. Wasting or diverting the supply of water

Any person who causes to be wasted or diverted any water supplied by the Concessionaire shall commit an offence punishable by a fine not exceeding VT 30,000.

31. Assault, obstructing etc. of authorised officer

Any person who assaults, molests, hinders or obstructs any authorised officer, servant or agent in the exercise of any of the powers conferred or in the execution of any works authorised by authority of the concession agreement or contract or the provisions of this Act, shall be guilty of an offence punishable by a fine not exceeding VT 30,000 or to imprisonment for a term not exceeding 3 months, or to both such fine and imprisonment.

32. Regulations

The Minister may make regulations, not inconsistent with the provisions of this Act, or the terms of any concession agreement or contract, generally for giving effect to the provisions of this Act and such regulations may impose penalties for the breach thereof not exceeding a fine of VT 30,000.

Table of Amendments

Part 3	*Inserted by Act. 9 of 1993*
22(2)	*Substituted by Act 28 of 1993*