

REPUBLIC OF VANUATU

BILL FOR THE WATER RESOURCE MANAGEMENT (AMENDMENT) ACT NO. OF 2016

Explanatory Note

This Bill amends the Water Resource Management Act [CAP 281] pursuant to the 2014 review undertaken by the Vanuatu Law Commission.

Item 1 repeals the Heading of Division 1 under Part 2 of the Act and substitutes it with a new Heading. Division 1 covers matters relating to the responsibility of water resources as well as customary rights and rights of occupiers to water sources.

Item 2 repeals the Heading of Division 2 under Part 2 of the Act. This amendment is necessary as this Division Heading is no longer required due to the changes made in item 4.

Item 3 repeals sections 5, 6, 7, 8, 9, 10 and 11 and substitutes these sections with Division 2 containing clauses 5, 6, 7 and 8 and Division 3 containing clauses 9, 10, 11 and 11A.

Division 2 provides for water use permit.

Clause 4 provides for the requirement to obtain a water use permit. Subclause 5(1) provides that a person must not use water for any other purpose other than provided for under clause 3 or 4 unless he or she has been issued with a water use permit under this section. Subclause 5(2) further provides that a person is not required to be issued a water use permit if he or she has been lawfully supplied with water from a work authorised under this Act.

Clause 5 provides for the process of application for a water use permit. Subclause 6(1) provides that a person applying for a water use permit must apply in the manner and form prescribed by the Minister and must pay the prescribed fees associated with the application. Subclause 6(2) provides that the Director may in writing require an applicant to provide any further information that the Director considers necessary to enable him or her to make a decision on the application.

Clause 7 provides for matters to be considered when making a determination on an application for a water use permit. Subclause 7(1) provides that the Director may either approve or reject an application for a water use permit. If the Director approves an application, he or she may impose conditions to that permit. The Director may decide to or not to reject an application if he or she is satisfied that the use of water being applied for is inconsistent with subclause 7(2) and no practical terms or conditions could be set to make the use of water applied for consistent with subsection

7(2). Subclause 7(2) provides for matters which the Director must be satisfied with before approving an application, which include being satisfied that the application is consistent with any National Water Resource Management Policy or Plans currently in force or is not likely to create a water shortage, health nuisance, adverse impacts on other lawful users of that water source or damage to water resources or the environment. Subclause 7(3) requires that a determination on an application must be made within 30 days after receiving the application. Subclause 7(4) provides that the Director may extend the time for determination to more than 30 days provided that the Director extends the time with the consent of the applicant and for the purpose of achieving a technical review of the information provided. Subclause 7(5) provides that upon making a decision the Director must advise the applicant in writing of his or her decision within 14 days of making that decision. Subclause 7(6) provides that if the Director does not approve the application he or she must state the reasons why the application was not approved.

Clause 8 provides for the limitation on the use of water. Subclause 8(1) provides that the Director may in writing limit or prohibit the right to use water during times of actual or anticipated shortage of water or if it has been considered that water from any source is detrimental to public health or safety. Subclause 8(2) provides that the Director may publish his or determination under subclause 8(1) in any manner he or she considers appropriate in the circumstance and must state the period during which his or her determination is to remain in force. Subclause 8(3) provides that if the Director intends to prohibit any water source due to health reason, he or she must make such a decision after consultation with the Director of Public Health.

Division 3 provides for water works permit.

Clause 9 provides for water works permit. Subclause 9(1) prohibits a person from constructing, operating or maintaining works without a water works permit for any work in or adjacent to any water source or any bore or for any work whose purpose is not to supply water to any other person. Subclause 9(2) provides that any work done on land does not confer any rights to that land on the part of the owner of the works or to that work on the part of the landowner.

Clause 10 provides for the process for application for a water works permit. Subclause 10(1) provides that a person applying for a water works permit must apply in the manner and form prescribed by the Minister and must include in his or her application any prescribed fees associated with the application. Subclause 10(2) further provides that the Director may in writing require an applicant to provide any further information that the Director considers necessary to enable him or her to make a decision on the application.

Clause 11 provides for matters to be considered when making a determination on an application for a water works permit. Subclause 11(1) provides that the Director may either approve or reject an application for a water works permit. If the Director approves an application, he or she may decide to or not to impose conditions to that permit. The Director may reject an application if he or she is satisfied that the work being applied for is inconsistent with subclause 11(2) and no practical terms or conditions could be set to make the work applied for consistent with subsection 11(2). Subclause 11(2) provides for matters which the Director must be satisfied with before

approving an application which include being satisfied that the application is consistent with any National Water Resource Management Policy or Plans currently in force or is not likely to create a water shortage, health nuisance, adverse impacts on other lawful users of that water source or damage to water resources or the environment. Subclause 11(3) provides that a determination on an application must be made within 30 days after receiving the application by the Director. Subclause 11(4) provides that the Director may extend the time for determination to a further 30 days provided that the Director extends the time with the consent of the applicant and for the purpose of achieving a technical review of the information provided. Subclause 11(5) provides that upon making a decision the Director must advise the applicant in writing of his or her decision within 14 days of making that decision. Subclause 11(6) provides that if the Director does not approve the application, he or she must state the reasons why the application was not approved.

Clause 11A provides that custom owners, private individuals, tribes or any group of people are not entitled to any form of compensation for water works.

Item 6 inserts after paragraph 14(2)(l) paragraphs (la), (lb) and (lc). These paragraphs provide for additional functions of the Director of providing technical advice to Rural Water Committees to ensure the sustainability of rural water supply systems, supporting the Rural Water Committees by providing technical support on the development of drinking water safety plans and support the rehabilitation and upgrades of community water supply systems that have exceeded their life cycle.

Item 7 repeals the Heading of Division 2 under Part 3 and substitutes a new heading “National Water Resource Advisory Committee”. This amendment is necessary made as the current Division heading is no longer required due to the amendment made in item 6.

Item 8 inserts after section 20 a new Division 3 consisting of clauses 20A, 20B, 20C, 20D, 20E, 20F, 20G, 20H, 20I, 20J and 20K.

Division 3 provides for the Provincial Water Resources Advisory Committee.

Clause 20A provides for the establishment of a Provincial Water Resources Advisory Committee in each Provincial Government Region.

Clause 20B provides for the functions of the Provincial Water Resources Advisory Committee. The functions of the Provincial Water Resources Advisory Committee include to oversee the proper planning and development of water supplies of the province it is responsible for, to coordinate water resource management activities, to provide reports and advice to the Director and the National Water Resource Management Committee in the relevant province, to advise the National Water Resource Management Committee on matters related to water sources in the relevant province and to perform such other functions as are required by the Director or the National Water Resource Management Committee.

Clause 20C provides for the composition of the Provincial Water Resources Advisory Committee. Subsection 20C(1) provides that the Secretary General of each Provincial Government Council is to by Order and on the recommendation of the Director and

the National Water Resources Advisory Committee, appoint 5 members of the Provincial Water Resources Advisory Committee. The Secretary General must ensure that he or she considers the merits of each candidate in respect to the relevant technical, legal and commercial water issues that are to be addressed, the needs of water consumers, including utilities and the commercial sector.

Clause 20D provides that the Secretary General of each Provincial Government Council is the Chairperson of the Provincial Water Resources Advisory Committee for the relevant Provincial Government Region. The clause further provides that members of the Committee are to elect from amongst themselves, a Deputy Chairperson of the Committee for a term not exceeding 12 months.

Clause 20E provides that the term of appointment of a member of the Committee other than the Secretary General, is 3 years from the date of appointment.

Clause 20F provides for the meetings of the Committee. The Committee is to meet at least 4 times in a year and all meetings are to be presided by the Chairperson or Deputy Chairperson in the absence of the Chairperson. The quorum of a meeting of the Committee is 4 members present at the meeting and the Committee may continue to meet despite any vacancies in its membership.

Clause 20G provides for the Secretary of the Committee. The clause provides that a staff of the Department of water nominated by the Director is to be the Secretary of the Committee.

Clause 20H provides that the Minister may on the recommendation of the Director establish Rural Water Committees for each community in a Provincial Government Region. The Minister may only establish a Rural Water Committee if he or she is satisfied that the members of the Committee have undertaken a community development training and a water management and financial training. Upon establishing a Committee the Director is to register the names of the members of that Committee. The Director must not register the names of the members of the Committee unless he or she receives nominations by the community within which the Rural Water Committee is established and at least 40 percent of the proposed members are female. All records of members of each Rural Water Committee must be kept and maintained in a registry.

Clause 20I provides for the functions of a Rural Water Committees which include but are not limited to develop, implement and maintain water supply conservation measures, manage water supply schemes and a community drinking water safety plan to ensure water safety and security. The Committee is responsible for representing the community on the ownership of the water supply system and facilitate decision making in the community, making rules to regulate water resource management issues and performing any other functions as required by the Provincial Water Resource Advisory Committee. The Committee must also negotiate and establish formal agreements to be filed with the Provincial Government Council and the Department, between the land owners and the community to allow land access, for water supply system.

Clause 20J provides that the Rural Water Committees may make rules for regulating the use of water sources in the relevant community and setting fees to be paid for the use of water sources as approved by the Director.

Clause 20K provides that the Rural Water Committee are to report to the Provincial Water Resource Advisory Committee on any matter concerning water supply or water resource management in their respective communities. The Provincial Water Resource Advisory Committees in each Province are to report annually to the Department and the National Water Resource Advisory Committee on the overall water supply services and water resource management in its particular Province.

Item 9 inserts after subsection 26(5) new subclauses (6) and (7). Subclause (6) provides that the Minister may on the advice of the Director make Regulations for water protection zones. Subclause (7) outlines additional responsibilities of the Director in relation to water protection zones including to carry to out research on harmful activities that degrade the quantity and contaminates the quality of water and to provide a list of harmful activities that must not be carried out within the Water Protection Zone.

Item 10 inserts after section 27 a new sections 27A which provides that the Minister may on the advice of the Director prescribe buffer zones over any river, stream, lake for any of the purposes set out under paragraphs 27A(1)(a) to (i). A person is prohibited from clearing or grubbing of existing vegetation, logging, grading or striping of soil, filing or dumping of waste, using, storing, or applying pesticides, herbicides, and fertilizers and from performing any prohibited activities under the Code of Logging Practices set out in the Forestry Act [CAP 267], within a prescribed buffer zone area.

Item 11 inserts after subsection 32(4) a new subsection (5). This amendment makes it an offence to undertake any activities outlined in sections 26 and 27A in a water protection zone or buffer zone. The amendment further makes it an offence:

- for a person to operate or facilitate the operation of a Rural Water Committee in contravention of this provision; or
- for a person to use water resources in contravention of Rural Water Committee rules; or
- assaults, obstructs, resists, delays, hinders, refuses entry, and intimidates any authorised officers under section 29 in the performance of their relevant duties.

A person who commits an offence under this section is liable on conviction to a fine not exceeding VT5,000,000 or imprisonment for a period not exceeding 12 months or both.

Item 12 inserts after section 32 a new section 32A. The Director may issue a penalty notice to any person who is suspected to have breached a provision of this Act. The penalty notice gives the receiver an option of settling the matter by paying a prescribed fee to the Government within a specific time frame if he or she does not want the matter brought before the Court. If that person pays the fine prescribed under

the penalty notice, no proceedings for the alleged offence is to be taken against him or her.

Honourable Minister of Lands and Natural Resources



REPUBLIC OF VANUATU

**BILL FOR THE
WATER RESOURCES MANAGEMENT
(AMENDMENT)
ACT NO. OF 2016**

Arrangement of Sections

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REPUBLIC OF VANUATU

BILL FOR THE WATER RESOURCES MANAGEMENT (AMENDMENT) ACT NO. OF 2016

An Act to amend the Water Resources Management Act [CAP 281] and for related purposes.

Be it enacted by the President and Parliament as follows-

1 Amendment

The Water Resources Management Act [CAP 281] is amended as set out in the Schedule.

2 Transitional Provisions

- (1) All water works and water uses lawfully undertaken prior to the commencement of this Act are deemed to be undertaken lawfully under this Act.
- (2) The Director may require persons with existing use rights to provide such information as is reasonably necessary for the purposes of this Act.

3 Commencement

This Act commences on the day on which it is published in the Gazette.

SCHEDULE

AMENDMENTS OF WATER RESOURCES MANAGEMENT ACT [CAP 281]

1 Part 2 - Division 1 (Division Heading)

Repeal the heading, substitute

“Division 1 Responsibility of water resources, customary rights and rights of occupiers to water resources”

2 Part 2 –Division 2 (Division Heading)

Repeal the heading.

3 Sections 5, 6, 7, 8, 9, 10 and 11

Repeal the sections, substitute

“Division 2 Water use permit

5 Water use permit

- (1) A person must not use water for any purpose other than provided for under section 3 or 4 and unless he or she has been granted a water use permit by the Director under this section.
- (2) Despite subsection (1), a person may use water without a permit under this section if the water is lawfully supplied from a work authorised under this Act.

6 Application for a water use permit

- (1) An application for a water use permit is to be made to the Director and must:
 - (a) be made in the manner and form prescribed by the Minister; and
 - (b) be accompanied by any prescribed fees including but not limited to:
 - (i) the application fee; and

- (ii) the permit fee.
- (2) In addition to subsection (1), the Director may in writing require an applicant to provide further information that is necessary to enable the Director to make a decision on the application.

7 Determination of application

- (1) Subject to subsection (3), the Director may:
- (a) approve the application with or without terms and conditions; or
 - (b) reject the application if he or she considers that:
 - (i) the use of water applied for is inconsistent with subsection (2); and
 - (ii) no practical terms and conditions could be set to make the use of water applied for, consistent with subsection (2).
- (2) In addition to subsection (1), the Director must be satisfied that the use of water stated in the application:
- (a) is consistent with any National Water Resources Management Policy or Plan currently in force; and
 - (b) is not likely to create a water shortage; and
 - (c) is not likely to create a health nuisance; and
 - (d) is not likely to adversely affect other lawful users of the water resource; and
 - (e) is not likely to damage the water resource or its environment; and
 - (f) is compatible with other uses and works in the immediate area; and
 - (g) is consistent with the Regulations.

- (3) A determination under subsection (1) must be made within 30 days after receiving the application.
- (4) Despite subsection (3), the Director may, with the agreement of the applicant, extend the time for determining the application to a further 30 days if it is necessary for the purpose of achieving a technical review of the information provided.
- (5) The Director must advise the applicant in writing of his or her decision within 14 days.
- (6) In addition to subsection (5), if the application has not been approved, the Director must state the reasons for not approving the application.

8 Limitation on right to use water

- (1) The Director may, by determination in writing, limit or prohibit any existing right to use water for any or all of the following reasons:
 - (a) in times of actual or anticipated shortage of water;
 - (b) when the use of water from any source has been considered detrimental to public health and safety.
- (2) The Director must:
 - (a) publish a determination under subsection (1) in such manner as he or she considers appropriate in the circumstances; and
 - (b) state in the determination the time period for which the order will remain in force, and the reason why water must not be used.
- (3) The Director must consult the Director of Public Health before making a determination under paragraph (1)(b).

Division 3 Water works permit

9 Water works permit

- (1) A person must not construct, operate or maintain works without a water works permit in the following circumstances:

- (a) any work in or adjacent to any water source or any bore; or
 - (b) any work whose purpose is not to supply water to any other person.
- (2) To avoid doubt the existence of any work on land does not confer any rights:
- (a) to that land on the part of the owner of the works; or
 - (b) to that work on the part of the landowner.

10 Application for a water works permit

- (1) An application for a water works permit is to be made to the Director and must:
- (a) be made in the manner and form prescribed by the Minister; and
 - (b) be accompanied by any prescribed fees including but not limited to:
 - (i) the application fee; and
 - (ii) the permit fee.
- (2) In addition to subsection (1), the Director may in writing require an applicant to provide further information that is necessary to enable the Director to make a decision on the application.

11 Determination of application

- (1) Subject to subsection (3), the Director may:
- (a) approve the application with or without terms and conditions; or
 - (b) reject the application if he or she considers that:
 - (i) the work applied for is inconsistent with subsection (2); and

- (ii) no practical terms and conditions could be set to make the work applied for, consistent with subsection (2).
- (2) In addition to subsection (1), the Director must be satisfied that the water works stated in the application:
 - (a) is consistent with any National Water Resource Management Policy or Plan currently in force; and
 - (b) is not likely to create a water shortage; and
 - (c) is not likely to create a health nuisance; and
 - (d) is not likely to adversely affect other lawful users of the water resource; and
 - (e) is not likely to damage the water resource or its environment; and
 - (f) is compatible with other uses and works in the immediate area; and
 - (g) is consistent with the Regulations.
- (3) A determination under subsection (1) must be made within 30 days after receiving the application.
- (4) Despite subsection (3), the Director may, with the agreement of the applicant, extend the time for determining the application to a further 30 days if it is necessary for the purpose of achieving a technical review of the information provided.
- (5) The Director must advise the applicant in writing of his or her decision within 14 days.
- (6) In addition to subsection (5), if the application has not been approved, the Director must state the reasons for not approving the application.”

4 After paragraph 14(2)(l)

Insert

- “(la) provide technical advice to Rural Water Committees to ensure the sustainability of rural water supply systems;
- (lb) support the Rural Water Committees by providing technical support on the development of drinking water safety plans;
- (lc) support the rehabilitation and upgrades of community water supply systems that have exceeded their life cycle;”

5 Part 3 – Division 2 (Heading)

Repeal the Heading, substitute

“Division 2 – National Water Resources Advisory Committee”

6 After section 20

Insert

“Division 3 – Provincial Water Resources Advisory Committee

20A Provincial Water Resources Advisory Committee

A Provincial Water Resources Advisory Committee is established for each Provincial Government Region.

20B Functions of a Provincial Water Resources Advisory Committee

A Provincial Water Resources Advisory Committee has the following functions:

- (a) to oversee the proper planning and development of water supply in the relevant Province; and
- (b) to coordinate water resource management activities in the relevant Province; and
- (c) to provide quarterly reports to the Director and the National Water Resources Management Committee; and
- (d) to advise the Director and the National Water Resources Management Committee on matters related to water supply in the relevant Province; and

- (e) to perform such other functions as is required by the Director or the National Water Resource Management Committee.

20C Composition of the Provincial Water Resources Advisory Committee

- (1) The Secretary General of each Provincial Government Council is to appoint by Order, on the recommendation of the Director and the National Water Resources Advisory Committee, 5 members of the Provincial Water Resources Advisory Committee.
- (2) In determining the composition of each Committee, the Secretary General, Director and National Water Resources Advisory Committee must take into consideration the merits of any candidates with respect to:
- (a) the relevant technical, legal and commercial water issues that are to be addressed; and
 - (b) the needs of water consumers; and
 - (c) the interest of utilities providers and the industrial sector.

20D Chairperson and Deputy Chairperson

- (1) The Secretary General of each Provincial Government Council is the Chairperson of each respective Provincial Water Resources Advisory Committee.
- (2) The members of the Committee are to elect from amongst themselves, the Deputy Chairperson of the Committee for a term not exceeding 12 months.

20E Term of members

- (1) A person appointed by the Secretary General under subsection 20C(1) is to hold office for a term of 3 years.
- (2) To avoid doubt, subsection (1) does not apply to the Secretary General.

20F Meetings of the Provincial Water Resources Advisory Committee

- (1) The Provincial Water Resources Advisory Committee must meet at least 4 times in a year and may hold such other meetings as are necessary for the proper performance of its functions.
- (2) The Chairperson of the Committee is to preside at all meetings of the Committee and in his or her absence the Deputy Chairperson.
- (3) At a meeting of the Committee, a quorum consists of 4 members present at the meeting.
- (4) The Committee may meet despite any vacancies in its membership so long as a quorum is present.
- (5) A member present at a meeting has 1 vote and questions arising at a meeting are to be decided by a majority of votes.
- (6) Any matters arising at a meeting of the Committee is to be decided by a majority of the members present and voting, and in the case of an equality of votes, the Chairperson is to have a casting vote.
- (7) Subject to this Act, the Committee is to determine and regulate its own procedures.

20G Secretary of the Committee

- (1) The Director is to appoint a staff of the Department to be the Secretary of the Committee.
- (2) The Secretary has the following functions:
 - (a) to convene meetings of the Committee at the request of the Committee; and
 - (b) to prepare and circulate agendas and issue papers for meetings of the Committee; and
 - (c) to coordinate, facilitate and implement the decisions of the Committee; and

- (d) to take, keep and maintain a proper record of the minutes of all meetings of the Committee and circulate them within 3 weeks after each meeting to all members of the Committee; and
 - (e) to attend to any matters as directed by the Committee in relation to the administration of the Committee; and
 - (f) to mobilise appropriate resources for the efficient implementation of all decisions of the Committee; and
 - (g) to ensure that meetings of the Committee are held according to the approved schedule of meetings; and
 - (h) such other functions that may be conferred on the Secretary by this Act or any other Act.
- (3) The Secretary must attend all meetings of the Committee and if he or she is unable to attend a meeting, the Secretary must nominate a staff of the Department to attend on his or her behalf.

20H Rural Water Committees

- (1) The Minister on the recommendation of the Director may establish Rural Water Committees for each community in a Provincial Government Region.
- (2) Subject to subsection (4), the Director is to register the names of the members of each Rural Water Committee.
- (3) The Minister must not establish a Rural Water Committee unless he or she is satisfied that the members of the committee have undertaken a:
 - (a) community development training; and
 - (b) water management and financial training.
- (4) The Director must not register the names of the members of a Rural Water Committee under subsection (2) unless the names have been nominated by the relevant communities.

- (5) At least 40 percent of the members of a Rural Water Committee must be women.
- (6) The Director is to keep a register of all prescribed Rural Water Committees and all members of each Committee.
- (7) A Rural Water Committee may regulate its own procedures.

20I Functions of a Rural Water Committees

- (1) The Rural Water Committee has the following functions:
 - (a) to develop, implement and maintain:
 - (i) water supply conservation measures; and
 - (ii) management of the water supply scheme; and
 - (iii) a community drinking water safety plan to ensure water safety and security; and
 - (b) to represent the community on the ownership of the water supply system and facilitate decision making in the community; and
 - (c) to make rules to regulate water resource management issues in the community; and
 - (d) to perform any other functions as required by the Provincial Water Resources Advisory Committee.
- (2) A Rural Water Committee must negotiate and establish formal Agreements to be filed with the relevant Provincial Government Council and the Department, between the land owners and the community to allow land access for a water supply system.
- (3) A Rural Water Committee may apply for assistance from the Director in the assessment, conservation or management of any water resources.

20J Rural Water Committee rules

- (1) A Rural Water Committee may make rules regulating water sources within the relevant community.
- (2) Without limiting subsection (1), the Rural Water Committee may make rules on the following matters:
 - (a) the use of water sources; and
 - (b) setting fees to be paid for the use of water sources as approved by the Director.
- (3) Water resources must be used in accordance with the rules made under this section.

20K Structure of water delivery and management system in rural areas

- (1) The Rural Water Committees are to report to the Provincial Water Resources Advisory Committee on any matter concerning water supply or water resources management in their respective communities.
- (2) A Provincial Water Resources Advisory Committee in each province is to report annually to the Department and the National Water Resource Advisory Committee on the overall water supply services and water resource management in its respective Province.”

7 After subsection 26(5)

Insert

- “(6) The Minister may on the advice of the Director make Regulations to provide for Water Protection Zones.
- (7) The Director must:
 - (a) carry out research on harmful activities that degrade the quantity and contaminates the quality of water; and
 - (b) provide a list of harmful activities that must not be carried out within the Water Protection Zone; and

- (c) advise the Minister to make regulations under subsection (6) to regulate these restricted harmful activities; and
- (d) put in place a programme of public education on these harmful activities to protect the Water Protection Zones.”

8 After section 27

Insert

“Division 3 – Buffer zones

27A Buffer zones

- (1) The Minister on the advice of the Director, is to prescribe buffer zones over any river, stream or lake for the following purposes:
 - (a) to improve water quality by trapping or removing sediment and chemicals from runoff as these pollutants lead to destruction of aquatic ecosystems; and
 - (b) to stabilize stream banks and prevent soil erosion; and
 - (c) to conserve or protect any water resource used or intended for water supply; and
 - (d) to maintain a habitat for fish and other aquatic organisms; and
 - (e) to improve the outward appearance of stream corridors; and
 - (f) to provide habitat and contiguous travel corridors for wildlife; and
 - (g) to filter impurities from water making the water fit for consumption and agricultural purposes; and
 - (h) to promote the protection, management or use of water in rural and urban areas; and
 - (i) to deal with any emergency which may affect water supply.

- (2) A person must not perform any of the following activities within a buffer zone:
- (a) clearing or grubbing of existing vegetation; or
 - (b) logging activities; or
 - (c) grading or striping of soil; or
 - (d) filing or dumping of waste; or
 - (e) use, storage, or the application of pesticides, herbicides, and fertilizers; or
 - (f) list of prohibited activities under the Code of Logging Practices under the Forestry Act [CAP 276].
- (3) In addition to subsection (2), the Minister may on the advice of the Director prescribe by Order, restricted activities within buffer zones.
- (4) Despite the provisions of the Physical Planning Act [CAP 193], no physical planning must be made in a buffer zone area.
- (5) For the purpose of this section “buffer zones” means an area to protect the open water such as river, lake, stream from pollution and interference with the natural flow of the open water.

9 After subsection 32(4)

Insert

- “(5) A person who:
- (i) undertakes any activity that is prohibited or restricted under section 26 or 27A; or
 - (ii) contravenes section 20H or subsection 20J(3); or
 - (iii) assaults, obstructs, resists, delays, hinders, refuses entry, and intimidates any authorised officers under section 29 in the performance of their relevant duties,

commits an offence punishable on conviction by a fine not exceeding VT5,000,000 or imprisonment for a period not exceeding 12 months, or both.”

10 After section 32

Insert

“32A Penalty notices

- (1) The Director may serve a penalty notice on a person if it appears to him or her that the person has committed an offence under this Act or the regulations and the offence is one that is stated by the regulations to be an offence to which this section applies.
- (2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a Court, the person may pay to the Department within a time specified in the notice the amount of penalty stated in the penalty notice.
- (3) A penalty notice may be served personally or by post.
- (4) If the amount of penalty prescribed for the purposes of this section for an alleged offence is paid under this section, that person is not liable to any further proceedings for the alleged offence.
- (5) Payment under this section is not to be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any proceeding arising out of the same occurrence.
- (6) The Regulations may:
 - (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence; and
 - (b) prescribe the amount of penalty payable for the offence if dealt with under this section; and
 - (c) prescribe different amounts of penalties for different offences or classes of offences.

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- (7) The amount of a penalty prescribed under this section for an offence must not exceed the maximum amount of penalty prescribed in this Act.
- (8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.”