

REPUBLIC OF VANUATU

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

Explanatory Note

This Bill amends the Water Supply Act [CAP 24].

Item 1 inserts before Part 1 a new Part A1 which provides for the interpretation clause of the Bill. This clause defines, amongst other matters, the area of concession as meaning an area assigned to a Concessionaire for the purposes of providing and maintaining water supply. This section also defines the term Concessionaire to mean an entity who holds the sole concession for the supply, development, management and maintenance of water over a certain area pursuant to an Agreement with the Minister. Director is defined as the Director of the Department of Water and Department means the Department of Water.

Items 2 and 3 amend the Act by removing any reference to the Department of Public Works because the responsibility for water supply has been transferred to the recently established Department of Water.

Item 4 repeals section 10 and replaces it with 3 new clauses. The new clause 10 provides that the Minister of Lands, Geology, Mines and Natural Resources and the Minister of Health may jointly by Order, prescribe a National Drinking Water Quality Standard. A Concessionaire must ensure that it complies with this Standard. Failure to comply is an offence punishable on conviction to a term of imprisonment for not more than 2 years or a fine not exceeding VT1,000,000, or both.

Clause 10A requires that a water supply system that is operated by a Concessionaire must have a drinking water safety plan. A drinking water safety plan is a plan which is to be prepared by a Concessionaire. It identifies the risks that can affect water quality and quantity and sets out the manner in which these risks can be reduced. This clause also makes it an offence if a Concessionaire fails to prepare a drinking water safety plan for its water supply system.

Clause 10B requires the Department to conduct a water safety audit on each water supply system that is operated and maintained by a Concessionaire. The purpose of the audit is to ensure that each water supply system has a drinking water safety plan that can be practically implemented. This audit is required to be carried out every 3 years.

Item 10C provides for the transitional period by which existing Concessionaires must prepare the drinking water safety plan for each water supply system. This section states that a Concessionaire must within 12 months of the commencement of this Act, have in

place a drinking water safety plan for each water supply system that the Concessionaire operates or maintains.

Item 5 repeals section 21 of the Act as this section has been incorporated into Item 1 of the Bill.

Item 6 amends section 26 by inserting a new paragraph 26(aa) after paragraph 26(a). This amendment confers an obligation on a Concessionaire to develop drinking water safety plans and to develop and improve the water supply system operated by the Concessionaire, in the manner set out in the plan.

Item 7 amends paragraph 28(2)(a) which provides for the composition of a Compensation Commission. This amendment applies to Concessions that cover a Municipality or a Provincial Government Council. It provides that the Minister may appoint either a Mayor of a Municipal Council or a President of a Provincial Government Council to be a member of the Compensation Commission, depending on the location of the area of the Concession in which a claim for compensation is made.

Item 8 amends paragraph 28(2)(c) by deleting the reference to the Department of Public Works and replaces it with the reference to the Department of Water.

Item 9 inserts after section 31 a new clause 31A which provides for penalty notices. This clause provides for penalty notices to be served by the Director for offences committed under the Act. A penalty notice is an alternative option to pursue apart from the prosecution of offences committed under this Act.

Minister of Lands, Geology, Mines and Natural Resources



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

An Act to amend the Water Supply Act [CAP 24].

Be it enacted by the President and Parliament as follows-

1 Amendments

The Water Supply Act [CAP 24] is amended as set out in the Schedule.

2 Commencement

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

SCHEDULE

AMENDMENTS OF THE WATER SUPPLY ACT [CAP 24].

1 Before Part 1

Insert

“PART A1 – PRELIMINARY MATTERS

A1. Interpretation

In this Act, unless the context otherwise requires:

area of concession means the area assigned to a Concessionaire for the purposes of providing, developing, managing and maintaining water supply;

Commission means the Compensation Commission appointed under section 28;

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;

consumer means a person who:

- (a) occupies a premises to which a water supply pipe and meter has been laid;
and
- (b) uses that water supply;

Department means the Department of Water;

Director means the Director of the Department of Water;

drinking water safety plan is a plan developed by a Concessioner that maps the water quality and quantity risks and documents mitigation measures to reduce risks;

Minister means the Minister responsible for Lands, Geology, Mines and Natural Resources;

premises means any land, building or other property that has access to a water supply system;

safety audit means the drinking water safety audit carried out by the Department to check the level of the Plan that is being implemented by a Concessionaire;

water supply system means any infrastructure system that is designed to provide water for domestic consumption and for commercial and industrial activities, and includes the extraction, collection, storage, transmission, treatment and distribution of water.”

2 Sections 1, 5, 8, 12, 13, 14, 15, 17, 18, 19 and 25

Delete “of Public Works” (wherever occurring in these sections)

3 Sections 2, 3, 5, 6, 23 and 25

Delete “Public Works” (wherever occurring in these sections)

4 Section 10

Repeal the section, substitute

“10. National Drinking Water Quality Standard

- (1) The Minister may, on the advice of the Director after consultation with the Director of the Department of Health, prescribe by Order a National Drinking Water Quality Standard.
- (2) A Concessionaire must ensure that the water it provides complies with the National Drinking Water Quality Standard prescribed under subsection (1).
- (3) A Concessionaire must at least 4 times a year, carry out regular testing of water quality which must be verified by the Utilities Regulatory Authority.
- (4) A Concessionaire who fails to comply with subsection (2), commits an offence and is liable on conviction to a term of imprisonment of not more than 2 years or by a fine of not exceeding VT1,000,000, or both.

10A. Drinking water safety plan

- (1) Each water supply system operated or maintained by a Concessionaire must have a drinking water safety plan.
- (2) A Concessionaire is required to prepare the water safety plan for each water supply system that is operated or maintained by that Concessionaire.
- (3) A drinking water safety plan must identify the risks that may affect water quality and quantity and must provide for the manner in which the risks can be reduced.
- (4) A Concessionaire who contravenes this section, commits an offence and is liable on conviction to a term of imprisonment of not more than 2 years or by a fine of not exceeding VT1,000,000, or both.

10B. Water safety audit

The Department is to carryout at least once every 3 years, a water safety audit on each water supply system that is operated or maintained by a Concessionaire.

10C. Transitional provision relating to water safety plan

- (1) This section applies to any Concessionaire who operates or maintains a water supply system immediately prior to the commencement of this Act.
- (2) A Concessionaire must within 12 months of the commencement of this Act, prepare a drinking water safety plan.
- (3) Subsection 10A(4) applies to a Concessionaire who fails to prepare a drinking water safety plan within the period required under subsection (2).”

5 Section 21

Repeal the section.

6 After paragraph 26(a)

Insert

- “(aa) develop a drinking water safety plan and implement the improvements as set out in the plan;”

7 Paragraph 28(2)(a)

Delete “Mayor of the Port Vila Municipality”, substitute “the Mayor of the Municipality or President of the Provincial Council (which ever is applicable depending on the location of the area of the concession in which the damage or loss is alleged to have been sustained)”

8 Paragraph 28(2)(c)

Delete “Public Works”, substitute “the Department”

9 After section 31

Insert

“31A. 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

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- (c) prescribe different amounts of penalties for different offences or classes of offences.
- (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.”