



# WATER RESOURCES BILL 2006

## **ARRANGEMENT OF SECTIONS**

### **PART 1 PRELIMINARY**

1. Purposes
2. Citation
3. Commencement
4. Application
5. Interpretation

### **PART 2 ADMINISTRATION**

6. Appointment of Officers
7. Powers of the Minister
8. Functions and Powers of Director
9. Powers of Inspectors,
10. Water Resources Advisory Board
11. Functions and Powers of the Board
12. Public Utilities

### **PART 3 RIGHTS IN WATER**

13. Water Subject to Public Control and Regulation
14. Customary Rights and Rights of Occupiers
15. Licenses
16. Existing Water Uses
17. Limitation on Rights to Take or use Water

### **PART 4 PROTECTION OF WATER CATCHMENTS, RIVER BEDS AND BANKS AND RECHARGE AREAS**

18. Water Catchment
19. Planning the Use of Flood Plains
20. Recharge Areas
21. Declaration of Water Control Area
22. Activities Prohibited in Water Control Area

28. Presumptions
29. Waiver of State Liability
30. Rights Conditional to Waterworks
31. Suspension, Modification and Revocation
32. License to be Recording

### **PART 6 REVISIONS, VARIATIONS, TERMINATION AND DIMINUTION OF LICENSE**

33. Revision of Volumes
34. Suspensions and Variation
35. Variation on Application
36. Termination for Breach of a Condition
37. Termination or Diminution for Public Purpose
38. Termination or Diminution for Non Use

### **PART 7 INVESTIGATION, ETC.**

39. Investigation
40. Rights of Entry

### **PART 8 MISCELLANEOUS**

41. Driller's License
42. Information and Records
43. Protection of Public Officers
44. Suspension, Termination and Abatement of Unauthorized Activities
45. Repairs and Restoration of Unauthorized Works
46. Demolition of Unlawful Works and Stoppage of Diversions and Abstractions
47. Application of Other Laws
48. Enforcement
49. Limitations on Private Property

23. Approval of Activities in Water Control Area

**PART 5**

**APPLICATION FOR LICENSE**

24. Contents of Application for a License  
25. Form of Application for a License  
26. Procedures for Granting a License  
27. Objection to Granting of a License

**PART 9**  
**APPEALS, PENALTIES AND  
SUPPLEMENTARY**

50. Appeals  
51. Offences  
52. Offences of Corporation  
53. Penalties  
54. Regulations

**Schedule**

**2006 No.**

## ***A BILL INTITUTED***

**BE IT ENACTED** by the Legislative Assembly of Solomon Islands in Parliament assembled as follows:

### **PART 1** **PRELIMINARY**

#### **1. Purposes**

This Act has the following purposes:-

- (a) To provide for the integrated management of the water resources of the Solomon Islands.
- (b) To promote the most efficient, fair and beneficial use of natural water.
- (c) To ensure that natural water resources are available for sustainable use for the benefit of all present and future Solomon Islanders.
- (d) To provide for the protection of natural watercourses and water catchments.
- (e) To provide for the control of activities occurring over or beside waterways or watercourses.

#### **2. Citation**

This Act may be cited as the Water Resources Act 2006.

#### **3. Commencement**

This Act shall come into operation on such date as the Minister may appoint by the notice published in the Gazette.

#### **4. Application**

This Act shall have general application throughout Solomon Islands and shall bind the government of the Solomon Islands and Provincial Governments and Area Councils and Municipal Authorities.

#### **5. Interpretation**

In this Act, unless the context otherwise requires: -

“**Area**” means an area of land declared under section 21 of this Act.

“**Board**” means the Water Resources Advisory Board established under Section 10

“**Borehole**” means any hole, excavation, drilling or other opening in the ground or any natural or artificially constructed or improved underground cavity which could be used, is used or may be used for the purpose of intercepting, collecting, obtaining or

abstracting or using groundwater or for the purpose of disposing of any water or wastes below the surface of the ground, or which extends to an aquifer in the ground.

**“Catchment Area”** means an area of land declared under section 18

**“Customary Land”** means any land (not being registered land, other than land registered as customary land, or land in respect of which any person becomes or is entitled to be registered as the owner of an estate pursuant to the provisions of Part III of the Lands and Titles Act) lawfully owned, used or occupied by a person or community in accordance with current customary usage.

**“Director”** means Director of Water Resources appointed under section 6.

**“Domestic Uses”** means use of water primarily for domestic purposes in any dwelling house or part thereof and generally for reasonable domestic uses regardless of whether or not they relate to customary rights and ownership.

**“Minister”** means the Minister of the Government for the time being charged with the responsibility for water resources.

**“Ministry”** means as the case may require, the Ministry responsible for water resources.

**“Land owner”** in relation to a registered interest means the person in whose name the interest is for the time being registered; and in relation to customary land, means the person or persons who is or are according to current customary usage, regarded as the owner or owners of the land.

**“Natural Water”** means all forms of water, including any river, stream, dam, lake, pond, swamp, marsh, canal, whether natural or artificial or other body of water forming part of that water course.

**“Person”** means individual or organization or companies.

**“Public Utilities”** means Authorities responsible for water resources related matter, created under their own Act.

**“Recharge Area”** means any Area as prescribed in section 21

**“Waste”** includes any matter that, when added to or mixed with any natural water, will contaminate the water so as to change the physical or chemical condition thereof in such a manner as to: -

- (a) Make the water unclean, noxious, or impure; or
- (b) Be detrimental to the health, safety, or welfare of persons using the water; or
- (c) Be poisonous or harmful to animals, birds, or fish around or in the water; or
- (d) Make the quality of such natural water below quality standard acceptable for human consumption in Solomon Islands

**“Water Right”** covers water license granted for the proper administration of this Act

**"Waterworks"** includes any reservoirs, channels, stormwater drains, pipelines, treatment & dis-infection plants, sewerlines, dams, intakes, machinery, equipment, low-level bridge or engineered ford-crossings and apparatus. It also includes any works undertaken which interfere, or are likely to interfere with a designated watercourse

**"Water Courses"** includes any river, stream, dam, lake, pond, swamp, marsh, canal, whether natural or artificial or other body of water forming part of that water course.

**"Water well"** means any bore hole, excavation, drill or other opening in the ground or any natural or artificially constructed or improved underground cavity which could be used, is used or may be used for the purpose of intercepting, collecting, obtaining, abstraction or using groundwater.

## **PART 2** **ADMINISTRATION**

### **6. Appointment of Officers**

- (1) There shall be appointed for the purposes of this Act: -
  - (a) a Director of Water Resources as an Administrative Head of the Division, and
  - (b) a Water Resources Inspector, and such other officers as may be necessary for the due administration of this Act.
- (2) Any appointment made under sub-section (1) shall, if the person appointed is to be a Public Officer, be made in accordance with the constitution but otherwise shall be made by the Minister by notification in writing.
- (3) The Director appointed pursuant to subsection (1) should be the holder of the post of Chief Hydrologist.

### **7. Powers of the Minister**

The Minister may at any time, on the advice of the Board,

- (a) issue,
  - i) water license
  - ii) driller's license
- (b) authorize in writing, any public officer to enter upon any land in Solomon Islands, to conduct water resources surveys as the Ministry may consider necessary in the interest of the conservation and best use of natural water
- (c) by notice, direct the holder of any license issued pursuant to this Act to produce records kept for the purpose of this Act
- (d) direct any person to comply with the provisions of this Act or regulations made thereunder
- (e) direct a holder of a license to comply with its terms and conditions
- (f) take whatever measures as may be necessary,
  - i) to protect the health and safety of persons

- ii) for conservation purposes with a view to preventing over-exploitation
- iii) to minimize damage to any land, water, vegetation and animal life
- iv) to protect area of known sources of recharge of groundwater, water catchment areas prescribed under sections 19 and 21.
- (g) prescribe rates of licenses and method of payment and collection

## **8. Functions and Powers of the Director**

Subject to the provisions of this Act, the Director shall have power, for the purpose of the performance of his functions under this Act-

- (a) To advise the Board on technical aspects of assessment, management and development of water resources
- (b) To receive applications for license and to submit such applications to the Board for consideration
- (c) To conduct or authorize the inspections of any land, buildings and waterworks for the purpose of this Act
- (d) To authorize persons other than holders of licenses to export water samples for the purposes of scientific research or such other purposes as he may deem fit
- (e) To carry out or follow up the decisions of the Board
- (f) To keep and maintain records and database of licenses in such manner as the Minister may require
- (g) To request the co-operation, where necessary, of other Ministries, Public Bodies, and private persons for the better performance of its functions

## **9. Powers of Inspectors**

- (1) Any officer appointed pursuant to section 6 shall, at all reasonable times, for the purposes of this Act may:-
  - (a) enter, inspect and examine any land, buildings and waterworks,
  - (b) examine and make inquiries in respect of:-
    - i) the state and condition of any building and waterworks,
    - ii) the flow or control of water,
    - iii) land use,
    - iv) any prohibited activities referred to in section 22,
  - (c) take water samples for investigation and assessment purposes
  - (d) exercise such powers as are necessary for carrying this Act effectively.
- (2) Whenever an inspector finds, or has reason to believe, that a holder is in breach of any provisions of this Act or regulations made thereunder, he shall bring such breach to the notice of the Director.
- (3) The Director, on being informed of any breach referred to in subsection (2), may take whatever actions he deems necessary in accordance with the provisions of this Act.

## **10. Water Resources Advisory Board**

- (1) There shall be established, for the purposes of this Act, a Water Resources Advisory Board, which shall, subject to the provisions of this Act, be responsible for general matters relating to the administration of this Act.
- (2) The provisions of the schedule shall have effect as to the constitution of the Board and otherwise in relation thereto.
- (3) The Minister may, after consultation with the Chairperson give the Board such directions of a general character as to policy to be followed by the Board in the performance of its functions as appear to the Minister to be necessary, and the Board shall give effect thereto.

## **11. Functions and Powers of the Board**

The Board has the following functions and powers:-

- (a) to advise the Minister on the issuing of licenses and other matters required under this Act
- (b) to steer a process of water reform and make proposals on major water policy issues
- (c) to review information on water resources and the water sector in general
- (d) to recommend water related investigation programs and projects
- (e) to recommend fees and charges required under this Act
- (f) to respond to activities relating to operations of public utilities
- (g) to propose mechanism by which water license fees are paid and collected
- (h) to assist in the determination of compensation claims relating to use of water or protection of water catchments or to compensation against commercial use of water
- (i) To advise on or approve national or regional water management measures such as plans, special area controls, guidelines for water abstraction and protection
- (j) to take any action which it deems necessary or desirable to facilitate the functions of the Board
- (k) to inform where appropriate, landowners or land holding groups affected by operations to be carried out, in terms of licenses granted under this Act.

## **12. Public Utilities**

- (1) The Government may create autonomous public utilities for the provision of public services based on water. They must be regulated by their acts of creation, and apply water legislation as required by the adequate performance of their functions.
- (2) Public Utilities shall become the statutory authority under the Ministry responsible for water resources. This Ministry represents the public utility at meetings of the Board.

## **PART 3** **RIGHTS IN WATER**

### **13. Water Subject to Public Control and Regulation**

- (1) All natural water within the territory of the Solomon Islands is hereby dedicated to the use of the people of the country, subject to public control and regulation in the manner hereby prescribed.
- (2) The right to control, protect, use, investigate, manage and administer the water of the Solomon Islands is vested in the Government and shall be exercised on its behalf by the Minister, the Board and the Director in accordance with this Act.
- (3) The provisions of this Act apply to water occurring, existing, or flowing in, into or through registered or unregistered, public, private or customary land. The provisions of this Act apply to any water use or activity of any kind that might affect the conservation, management and development of natural water.

### **14. Customary Rights and Rights of Occupiers**

- (1) Subject to the provisions of section 17,
  - (a) every person who, by custom, is entitled to use natural water for domestic and stock purposes, to irrigate a subsistence garden or for fishing or for navigation without a license.
  - (b) the occupier of any land, his family and employees ordinarily resident on that land shall be entitled to use any water on, adjacent to, or under that land for domestic and stock purposes without a license.
  - (c) Abstraction of water for domestic uses and fire fighting shall not require any kind of license.
- (2) A person taking water from a water course or lake in pursuance of sub-section (1) may place a permanent installation for taking water in or on the land adjacent to the water course or lake, but shall not build any works obstructing the flow of the water course or lake. Such permanent installation shall not totally obstruct the flow of natural water.

### **15. Water License**

- (1) No one may abstract or divert nor dam natural water without a license issued by the Ministry responsible for water resources. Water for domestic uses shall not require any kind of license.

### **16. Existing Water Uses**

- (1) Any person or companies or organizations diverting or abstracting natural water, at the date of commencement of this Act must, within six calendar months of that date, apply to the Ministry responsible for water resources for a license.
- (2) Provided that failure to make application to the Ministry responsible for water resources entitles the Ministry to either discontinue and halt the use or discharge, or grant and record it ex officio.

## **17. Limitation on Rights to Take or Use Water**

Whenever any water is used pursuant to section 14 or 16 the Director shall have power either generally or in particular cases, by notice: -

- published in a newspaper circulating in the area to which the notice relates;
- published by radio;
- served on the owner or occupier of any land to which the notice relates,

as he sees fit,

- i) in times of actual or anticipated shortage of water, to fix the amount of water which, and purposes for which, such water may be used by any person.
- ii) to define the places from which, the manner in which and the times at which such water may be used or may not be used.
- iii) temporarily or permanently to prohibit the use of water from any sources for such purposes when, in the opinion of the Director, the use of such water would be dangerous to health.

**PART 4**  
**PROTECTION OF**  
**WATER CATCHMENTS, RIVER BEDS AND BANKS AND RECHARGE AREAS**

**18. Water Catchments**

The Ministry responsible for water resources controls the use and development of water catchments and riverbanks. Such control may be exercised through regulations, orders, and instructions prescribed by the Minister. Logging, mining and extraction of sand and gravel in water catchments, river banks and river beds may be restricted by the Ministry according to the requirements of catchment management and conservation. These restrictions may only be compensated and paid for if they amount to functional dispossession or transfer of ownership.

**19. Planning the Use of Flood Plains**

The Minister may declare flood-prone areas to be flood control zones. Flood control zones may only be used and developed in the manner allowed by the regulations, order, or instruction applying therein. No compensation is paid when enforcing regulations based on the risk of floods, except when they amount to functional dispossession or transfer of ownership.

**20. Recharge Areas**

The Ministry responsible for water resources may restrict the use of, and protect the areas which, are known sources of recharge of groundwater. Restrictions to the use and development of such areas may only be compensated when they amount to functional dispossession or transfer of ownership or shall declare such area as protected area under section 21 or 54.

**21. Declaration of Water Control Area**

- (1) The Minister may, by order in the Gazette, declare an area to be: -
- (a) Water Catchment; or
  - (b) Groundwater recharge; or
  - (c) Flood control zone

for the purposes of this Act.

- (2) The terms and conditions in respect of the taking water, restoration of land or any other matter in respect of an area declared under sub-section (1) are as prescribed under regulations to be made by the Minister.

**22. Activities Prohibited in a Water Control Area**

- (1) Subjected to this section, in a water control area no person shall: -
- (a) Carry out logging, mining and extraction of sand and gravel
  - (b) ring-bark, cut down or destroy trees or vegetation; or
  - (c) construct, alter, remove, repair, cleanse or scour a drain, trench or channel; or
  - (d) construct, alter or remove an embankment against a water course or lake; or

- (e) construct, alter or remove an embankment in such a way as to alter or be likely to alter the course, or in any way impede or be likely to impede the flow or movement of surface water; or
  - (f) sink or construct a water well or water bore hole; or
  - (g) burn off trees, shrubs, plants, grass or foliage; and
  - (h) construct dwelling houses and grazing livestock
- (2) Any activity prohibited under sub-section (1) may be permitted, subject to conditions and in accordance with the provisions prescribed under section 23.

**23. Approval of Activities in Water Control Area**

- (1) The Director may grant approval to a person a written approval authorizing the person to do, in a water control area specified in the approval, or in a part of a water control area so specified, any activity otherwise prohibited under section 22 (1).
- (2) An approval under this section shall be in force for such period and be subject to such conditions and restrictions as the Director sees fit and as are specified in the approval.
- (3) The powers conferred by this section may be exercised whether or not negotiations have been made for the purposes of section 22 (2) and, if any regulations have been made for the purposes of that sub-section, notwithstanding the provisions of those regulations.

**PART 5**  
**APPLICATION FOR LICENSE**

**24. Contents of Applications for License**

- (1) Contents of application for license shall be prescribed by the Director in the form and manner approved by the Minister under regulations to be made under section 54(b).
- (2) Any variation or amendment to contents of an application for license shall be prescribed by the Director and approved by the Minister under regulations to be made under section 54.

**25. Form of Application for License**

- (1) An application for: -
  - (a) water license; or
  - (b) driller's license, or
  - (c) an amendment or variation of any license under section 35

shall be made to the Director in the prescribed form and manner approved by the Minister; and accompanied by any charge or fee that is prescribed or fixed by the Minister.

- (2) Every application for a license or amendments to a license under section 35, shall be submitted by the Director to the Board which shall advise the Minister as it thinks fit.
- (3) Every license shall be valid for one year from the date of issue and may be renewed on payment of the prescribed charge or fee.

**26. Procedures for Granting a License**

- (1) No license may be granted by the Minister, unless 60 day's notice of the application therefore or of the intention to do so, and an opportunity to make representations thereon have been given to every person who, in the opinion of the Ministry responsible for water resources is likely to be adversely affected by the granting of such a license.

Provided that nothing in this sub-section shall apply to any person who has requested or consented to the license.

- (2) Where the Ministry responsible for water resources considers that it is not possible to give notice to every person required to be given notice under sub-section (1), without involving delay and expense as would be unreasonable in the particular circumstances, the Ministry responsible for water resources may post notices or cause them to be posted in a conspicuous position on or near the land affected.

## **27. Objection to Granting of License**

- (1) Application for the obtaining or renewal of a license under sections 24 and 25 must be made and disposed of in a manner to be prescribed by regulations to be made by the Minister:
- (2) Provided that: -
  - (a) any person wishing to object to the granting or renewal of a license is given an opportunity to do so; and
  - (b) a license is subject to restrictions as to its duration as may be specified in regulations.

## **28. Presumptions**

Where any natural water is diverted or abstracted or any damage is caused in contravention to section 15, the owner or occupier of any land, premise, or building, benefiting from the diversion or abstraction is assumed, in the absence of any evidence to the contrary, to have caused or effected the diversion or abstraction as the case may be.

## **29. Waiver of State Liability**

Nothing in the granting of a license is deemed to imply that the quantity of water therein referred to is or would be available, or that the conditions and manners of exercise of the water right are not subject to change according to changes in public needs, policies or circumstances.

## **30. Rights Conditional to Waterworks**

- (1) Where the Ministry has granted a license subject to the construction of works within a specified period, it may, on application and notwithstanding that the period previously allowed may have expired, extend the period for the construction on not more than two occasions.
- (2) An applicant must notify the Ministry in the manner prescribed, in regulations to be made, of the date of commencement and completion of the works. The Ministry, at its discretion, may cause the works to be inspected during construction and on completion by an officer designated by the Ministry.
- (3) No license issued under this section is deemed to imply any guarantee that the works are properly designed or constructed nor supports or justifies any claim of any nature against the government, the Minister or any public officer in connection with such works.

## **31. Suspension, Modification and Revocation**

A license may be modified, suspended or revoked by the Ministry without paying any compensation:

- (a) for any material false statement in the license application
- (b) for breach of any condition of the license;

- (c) for refusal to allow inspection of works;
- (d) to protect natural water;
- (e) to protect public health, public safety or public welfare;
- (f) to protect any commercial, domestic or municipal uses of natural water; or
- (g) due to changes in the circumstances under which the original license was issued.

**32. Licenses to be recorded**

A license granted by the Minister and any variation, revision, termination or diminution or revocation thereof must be recorded by the Ministry in the manner prescribed in regulations to be made.

**PART 6**  
**REVISIONS, VARIATIONS,  
TERMINATION AND DIMINUTION OF LICENSES**

**33. Revision of volumes**

- (1) If at any time in any specified area, the quantity of water to which licenses exist is insufficient to satisfy all such licenses and unlicensed domestic abstractions, the Ministry may review the allocation of water in that area, and in so doing they may revise the quantity allowed by any license and the terms and conditions thereof to the use of water in that area, and record such revised quantity, terms and conditions in the register of water licenses and so inform the holders of the licenses.
- (2) Provided that the Ministry has regard to the principle that where full use of the water has been maintained to the extent permitted by a license, no license may be cancelled or reduced except in proportion to all other licenses in the same area.
- (3) Any revised quantity under sub-section (1) shall be according to guidelines of the in-stream or residual flow requirements in an area to be prescribed under regulations to be made by the Minister.

**34. Suspensions and Variations**

Where in the opinion of the Ministry the supply of water from any source or in any area is or is likely to: -

- (a) become insufficient for the needs of persons using it on account of excessive use, drought, or of an emergency; or
- (b) deteriorate in quality on account of abstraction and diversion in excessive quantities or at an excessive rate.

the Ministry at any time may suspend or vary, by notice to the holders of water licenses, all or any license to divert, abstract or use water from that source, or in that area, for such periods as are deemed necessary, and upon such notice being given by the Ministry, such licenses cease for the period of suspension or are exercisable only as so varied, as the case may be.

**35. Variation on Application**

The Ministry may, on the application of the holder of a license, terminate or diminish or increase the right granted thereunder or vary any of the terms and conditions thereof as it sees fit.

**36. Termination for Breach of a Condition**

- (1) Where the holder of a license: -
  - (a) fails to comply with any condition, express or implied, subject to which the license was granted; or
  - (b) diverts, abstracts, or uses water in excess of that authorized or uses water for a purpose not authorized by license; or

(c) commits an offence against this law,

The Ministry may by notice in writing addressed to the holder declare the license to be terminated.

- (2) Provided that where the default is one capable of being remedied, the Ministry must first serve on the holder notice in writing specifying the default and requiring the holder to remedy the same within such time as specified in the notice, and if the default is so remedied the Ministry will not declare the license terminated.
- (3) In the case where a breach occurs, the license holder is guilty of an offence on account of his wasteful use or damage caused.

### **37. Termination or Diminution for Public Purpose**

- (1) Where the Ministry deems it necessary or expedient in the interest of the use of water in such manner as to promote the public benefit or the utilization of such water in such manner as to promote the economic well-being of the community, it may give notice in writing addressed to the holder of any license, terminating or diminishing the license granted thereunder to the extent that the water is required for such public benefit or economic well-being and thereupon the license lapses or is exercisable only as so diminished, as the case may be.
- (2) The holder of any terminated or diminished license shall be eligible to receive as an ex-gratia payment from the Ministry, such sum as the Ministry may determine according to guidelines provided under regulations to be made.
- (3) The holder of any terminated or diminished license shall have recourse from the determination of the Ministry under this section, in the manner provided for.

### **38. Termination or Diminution for Non Use**

- (1) If at any time the Ministry has reason to believe that the holder of a license has not, during the preceding period of twelve months, made reasonable use of the license, it may by notice in writing addressed to such license holder call upon him to show cause why such license should not be terminated, diminished or modified in such respects as may be specified in the notice.
- (2) If within thirty days of the service of such notice no reply is received by the Ministry, it may declare the license terminated, diminished or modified as the case may be.
- (3) The holder of a license upon whom a notice is served may, within thirty days of such service, submit to the Ministry a statement in writing of reasons why the license should not be terminated, diminished or modified as the case may be and has a right to be heard in the matter.
- (4) The Ministry must consider any statement submitted to it and must, if so required, give the license holder an opportunity of being heard in person or by his legal representative, and may thereafter by notice in writing to the holder: -

- (a) declare the license terminated
- (b) declare the license diminished or modified in such respects as may be specified in the declaration; or
- (c) declare the license to be unchanged

**PART 7**  
**INVESTIGATION, ETC.**

**39. Investigation**

- (1) The Minister or Director may, by written instrument, authorize a person by himself or by his assistants, employees, agents or contractors, with or without vehicles or machinery: -
  - (a) to enter upon land, on the provisions of this Act to collect, collate and analyze of data concerning the occurrence, flow, characteristics, quantity and use of any water and provide for:-
    - (i) the systematic gauging and recording of rainfall and the volume and flow of natural water.
    - (ii) the construction, operation and removal of gauging, recording and monitoring stations and investigation and monitoring bores.
    - (iii) the sampling and analysis of any natural water.
  - (b) to enter upon any land within a protected area and carrying out such works relating to the use, flow and control of natural water.

**40. Rights of Entry**

- (1) Any authorized person is, on producing (if so required) some duly authenticated document showing his authority, entitled at all reasonable hours to enter upon any land: -
  - (a) to monitor compliance with the provisions of this Act and with any conditions subject to which a license or license has been granted under this Act;
  - (b) to inspect and investigate conditions relating to the quantity and quality of natural water;
  - (c) to install, maintain, read or test any meter required for the purpose of this Act.
- (2) Any person acting under sub-section (1) is entitled to: -
  - (a) take measurements to ascertain the quantity and quality of water abstracted or capable of being abstracted by means of any works;
  - (b) examine records kept for the purpose of this Act;
  - (c) take a sample of any water or other substance which may appear to him as being capable of affecting the quality of natural water.
- (3) Provided that compensation is payable for all damage done and for any land occupied for the construction of works and, in default of agreement, the amount is to be determined by a court of competent jurisdiction.
- (4) Any person willfully obstructing an authorized person in the exercise of his powers under sub-sections (1) to (2) or interfering with or damaging any works established or maintained under sub-section (1) is guilty of an offence and liable on conviction.

**PART 8**  
**MISCELLANEOUS**

**41. Driller's License**

- (1) No person or companies or organizations may, after the expiration of three months from the date on which this Act comes into effect, for hire or reward, construct, enlarge, alter or caused to be constructed, enlarged, altered or undertaken any works on any water well or bore hole unless he holds a Driller's license as provided by regulations to be made under section 54
- (2) Any person or companies or organizations who acts in contravention of sub-section (1) is guilty of an offence and liable on conviction to the penalties specified in section 53.
- (3) A driller's license shall be valid for one year from the date of issue and may be renewed on payment of the prescribed fee.

**42. Information and Records**

- (1) The Ministry responsible for water resources may, by notice in writing served on any person who is the holder of a license or entitled to the possession of any land, require him to keep such records and, additionally or alternatively, to furnish in such form and manner and within such time as may be specified in the notice or as may be prescribed by regulations to be made by the Minister, such periodical or other estimates or returns: -
  - (a) as the Ministry may specify for the purpose of ascertaining the amount or rate of water diverted or abstracted under the authority of a license;
  - (b) as the Ministry may require and specify in the notice for the purpose of ascertaining the amount or rate of groundwater abstracted, a license holder shall furnish the Ministry bore hole information in such form and manner prescribed under regulations to be made by the Minister.
  - (c) relating to such matters as may be prescribed, as matters on which a person may be required to give information as being relevant to the conservation and best use of water in the Solomon Islands.
- (2) Any person required to keep records or to furnish information and estimates under sub-section (1) who fails to do so is, unless he proves that he has reasonable excuse for such failure, guilty of an offence and liable on conviction to the penalties specified in section 53 in addition to the suspension or cancellation or non-renewal of his license.

**43. Protection of Public Officers**

No public officer, inspector or other person authorized under this Act shall be personally liable for anything done or omitted to be done in good faith in the performance of functions under this Act.

**44. Suspension, Termination and Abatement of Unauthorized Activities.**

- (1) The Ministry may order the immediate suspension, termination and abatement of activities upon the terms of section 15 and 22. If abatement is not carried out by the infractor upon request of the Ministry, the Ministry may itself cause the activity or discharge to be terminated and abated.
- (2) The costs and expenses incurred by the Ministry in so doing may be recoverable from the transgressor.

**45. Repairs and Restoration of Unauthorized Works**

- (1) If in the opinion of the authorities of application of this Act any works are so constructed, maintained, or used or are being so constructed as to constitute a danger to life, health or property, any of them may require any person for the time being enjoying the benefits of those works to carry out such repairs or to effect such additions or modifications to such works or to carry out such demolition or to change the use of the works in such manner as considered necessary, and may by notice in writing suspend any license granted or renewed under this Act, until such requirements have been fulfilled.
- (2) Where within a water control area a person has, otherwise than:
  - (a) in accordance with the regulations made for the purpose of section 22 (2); or
  - (b) in accordance with an approval granted under section 23; or
  - (c) in accordance with a notice under sub-section (3),

constructed, altered or removed a drain, trench, channel or embankment, the Ministry may, by written notice, require the person to: -

- (d) fill in or restore the drain or channel; or
- (e) remove or restore the embankment,

in the time specified in the notice.

- (3) If a notice under this section is not complied with in all respect, the Ministry may cause the work specified in the notice, or the portion of that work that has not been done to be done and may recover the cost of doing that work from the person to whom the notice was given as a debt due by that person to the state.

**46. Demolition of Unlawful Works and Stoppage of Diversions or Abstractions**

- (1) Any person: -
  - (a) who has constructed, enlarged, altered or undertaken or caused to be constructed, enlarged, altered or undertaken any works, canals, or any quarrying operations contrary to the provisions of this Act; or
  - (b) whose license in respect of any such works or operations has been terminated under the provisions of this Act or has otherwise come to an end.

- (2) Any person who causes or knowingly licenses: -  
the diversion of surface water or the abstraction of ground water otherwise than in accordance with the provisions of this Act;

may be required to modify, demolish or remove such works or operations within such period, not being less than twenty days after the service thereof, as may be specified in the notice.

#### **47. Application of Other Laws**

Nothing in this law derogates the need to obtain the licenses and authorizations required under the Land and Titles Act, the Forest Resources and Timber Utilization Act, the Environment and Conservation Act, the Electricity Act, the Mines and Minerals Act, the Provincial Governments Act, the Town and Country Planning Act, Solomon Island Water Authority Act and the Public Health Ordinance, their amendments and modifications. Provided that the function allocated by the Water Resources Act, are discharged according to its provisions. The River Waters Ordinance is hereby repealed

#### **48. Enforcement**

- (1) If any required steps by notice under this Act have not been taken, the authority of application of this Act issuing the order may enter into any land, building and waterworks, and take those steps, and may recover any expenses from the transgressor, according to the procedure for the collection of charges under regulations to be made.
- (2) Provided that the rules of appeals provided in Part 9 section 50 apply.

#### **49. Limitations on Private Property**

- (1) Private property, including customary lands, is subject to expropriation and condemnation, assessment and enforcement of servitude and right of way, temporary occupation and limitations as required by the provision of public services and appropriate management and conservation of the water resources of the country.
- (2) Provided that compensation is paid as and when required by the Lands and Titles Act.

**PART 9**  
**APPEALS, PENALTIES ETC.**

**50. Appeals**

Any person aggrieved by the decision of the Minister given under this Act may, within three months of the decision, appeal to the Minister, which may confirm, adjust or vary the decision on the advise of the Board.

**51. Offences**

- (1) Any person who contravenes or fails to comply with any of the terms and conditions of any license or attached to any easement under this Acts, not being a term or condition requiring the payment of compensation, shall be guilty of an offence and shall be liable, on conviction before a magistrate, to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.
- (2) Any person who:
  - (a) obstructs any other person in the due exercise of that other person's rights under any license or easement granted under this Act; or
  - (b) obstructs the Director, any inspector or other authorized officer in the due exercise of his powers under this Act,

shall be guilty of an offence and shall be liable, on conviction before a magistrate, to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

**52. Offences of Corporation**

Where a corporation is guilty of an offence under this Act, any officer, director, or agent of such corporation who authorized, assented to, or participated in, or by neglect or omission contributed to the commission of the offence, is a party to and guilty of the offence and liable to the penalty provided for the offence.

**53. Penalties**

Any person guilty of an offence against any provision under this Act for which no penalty is provided elsewhere in the Act, shall be liable, on conviction before a magistrate, to a fine not exceeding two hundred dollars, and in default of payment, to imprisonment for a term not exceeding three months.

**54. Regulations**

The Minister may make under regulations generally for the proper carrying out of the provisions and purposes of this Act, and in particular but without prejudice to the generality of the foregoing may make regulations: -

- (a) prescribing fees for the doing of anything by this Act required or authorized to be done,

- (b) prescribing the procedures for issuing licenses;
- (c) prescribing the protection of catchment and recharge areas, and flood control zones;
- (d) providing for the determination of compensation;
- (e) for the appointment of officials and authorized persons;
- (f) relating the design and standards of materials to be used in construction of waterworks;
- (g) prescribing the methods of recording of licenses;
- (h) prescribing the methods, specification, restrictions of issuing and renewing of licenses;
- (i) prescribing the uses and public control of water resources;
- (j) providing for the construction and abandonment of water well bore holes
- (k) provide for the supply of bore hole information;
- (l) prescribing forms to be used;
- (m) prescribing the form and manner in which fees may be refunded
- (n) provide for control of activities in water control area; and
- (o) prescribing any other matter or anything, which may be, or is required by this Act.

**SCHEDULE**  
**(Section 10)**

**Constitution of the Board**

1. (1) The Board shall consist of the Director who shall be an ex officio member and the following members who shall be appointed by the Minister by instruction in writing, in the following manner, that is to say: -
  - (a) Chairperson appointed by the Cabinet on the advice of the Minister responsible for the water resources.
  - (b) Government Representative as follows:-
    - i) Permanent Secretary, Ministry of Natural Resource, Deputy Chairperson
    - ii) Representative, Ministry of Health
    - iii) Representative, Ministry of Lands
  - (c) Community Representatives as follows:-
    - i) Representative from NGOs
    - ii) Representative from Chamber of Commerce
    - iii) Representative from Women Council
    - iv) Representative from National Churches
    - v) a representative from the Provincial Government or Town Council.

Provided that, in addition, the Minister shall appoint to sit as members of the Board when it considers an application for the issue of a license: -  
a representative from Area Council.  
a representative from the Landowner.

- (2) The representatives of each Government Ministries must be chosen by their respective Permanent Secretaries in consultation with the Permanent Secretary, Ministry responsible for Water Resources
- (3) Their appointment to the Board must be approved by the Minister responsible for Water Resources

**Duration of Appointment**

2. (1) Members of the Board shall hold office for such period as the Minister may specify in the member's instrument of appointment or, if no period is specified, for a period of two years from the date of appointment and are eligible for re-appointment.
- (2) A member of the Board may at any time resign his office as a member by giving notice in writing to the Minister and the resignation shall take effect on the date specified in the notice or, if no date is specified, on the date of receipt by the Minister of the notice.

**Vacation of Office of Member**

3. (1) If a member: -
  - (a) becomes permanently incapable of performing his duties; or
  - (b) resigns his office by written notice to the Minister; or

(c) is absent, except on leave granted by the Board from all meetings held during six consecutive months in any period of 12 months,

the minister shall terminate his appointment.

(2) Where an office becomes vacant under sub-section (1) the vacancy shall be filled in accordance with section 5 of the Schedule

(3) Without giving any prior notice the Minister may, at any time, terminate the appointment of a member for inability, inefficiency, incapacity or misbehavior.

### **Chairperson and Deputy Chairperson**

4. The Board at its first meeting and thereafter from time to time must elect from amongst its members a Chairperson and Deputy Chairperson by majority vote.

### **Alternate Members**

5. (1) For each member appointed under section 1 of the Schedule, there shall be an alternate member who shall be nominated and appointed in the same manner and subject to the same conditions as the member for whom he is the alternate.

(2) In the event of the inability of a member to act as a member of the Board, the alternative member has and may exercise all his powers, functions, duties and responsibilities as a member and this Act applies accordingly.

(3) Unless the Board otherwise directs, an alternative member may attend all meetings of the Board, but shall not vote on any matter or be counted towards a quorum except where he is attending in the absence of a member for whom he is the alternative.

### **Meetings of the Board**

6. The meetings of the Board shall be determine as: -

(a) The Board shall meet at such times and places as the Chairperson determines or as the Minister directs, and in any case not less than four times a year.

(b) The Chairperson shall, if requested to do so by not less than four members, call a meeting of the Board as soon as practicable after receiving the request.

(c) The Chairperson shall give at least seven days notice of a meeting of the Board to each member.

### **Presiding**

7. The Chairperson or Deputy Chairperson shall preside at all meetings of the Board.

### **Quorum**

8. The quorum for a meeting of the Board shall be six of members of whom one shall be the chairperson or acting chairperson of the Board.

## **Voting**

9. (1) The decisions shall be made by the concurrent vote of the majority of the members attending the meeting.
- (2) The person presiding at a meeting of the Board has a deliberative, and in the event of an equality of votes on a question, also a casting vote.

## **Minutes**

10. The Board shall cause minutes of its meetings to be recorded and kept, and shall forward recommendations and proposals to the appropriate Minister for approval.

## **Remuneration**

11. The members of the Board shall be entitled to be paid such remuneration (including travelling and subsistence allowance) where appropriate as the Minister may, from time to time, determine.

## **Disclosure of Interest by Members of Board**

12. (1) A member of the Board who has a direct or indirect interest in a matter being considered or about to be considered by the Board shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Board.
- (2) A disclosure under sub-section (1) shall be recorded in the minutes of the Board and after the disclosure, the member: -
  - (a) shall not take part in any deliberation or decision of the Board with respect to that matter; and
  - (b) shall be disregarded for the purpose of constituting a quorum of the Board for any such deliberation or decision.