

Environment Act 1998

*(Commenced 1 September 2003
as per LN No.77 2003)*

SOLOMON ISLANDS

THE ENVIRONMENT ACT 1998 (NO. 8 OF 1998)

Passed by the National Parliament this twentieth day of October 1998.

Assented to in Her Majesty's name and on Her Majesty's behalf this first day of May 1999.

Date of commencement: see section 1

AN ACT TO MAKE PROVISION FOR THE PROTECTION AND CONSERVATION OF THE ENVIRONMENT; THE ESTABLISHMENT OF THE ENVIRONMENT AND CONSERVATION DIVISION AND THE ENVIRONMENT ADVISORY COMMITTEE AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

ENACTED by the National Parliament of Solomon Islands.

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THE ENVIRONMENT ACT 1998

No. 8 of 1998

PART I PRELIMINARY

Short title and commencement

1. This Act may be cited as the Environment Act, 1998, and shall come into force on such date as the Minister may appoint, by notice published in the Gazette.

Interpretation

2. In this Act, unless the context otherwise requires -

"approval" includes the granting of any consent, licence or permit required under this Act or any other administrative policy directive concerning any development;

"conservation" includes protection, maintenance and preservation;

"development" means foreign or local investment, enterprise or undertaking, industrial or commercial operation, scheme or change in land use and includes -

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

"developer" means any person who undertakes or proposes to undertake development;

"development consent" means a consent to carry out any development under Part III;

"Director" means the Director of the Environment and Conservation Division;

"discharge", includes depositing, allowing to escape, or failing to prevent from being discharged any waste or noise into the environment;

"Division" means the Environment and Conservation Division established under section 5;

"environment" includes all natural and social systems and their constituent parts, and the interactions of their constituent parts, including people, communities and economic, aesthetic, culture and social factors;

"environmental audit" means the assessment of compliance with any environmental requirements, standards or development consent conditions;

"environmental impact assessment" means the assessment of environmental impact of an existing or proposed development under Part III;

"Environment impact statement" means a report presenting the results of an environmental impact assessment under Part III;

"Environmental Inspector" means a person appointed under section 5;

"environmental protection" includes anything which furthers the objects of this Act.

"impact", concerning the use, development or protection of the environment, includes -

- (a) a positive or adverse impact;
- (b) a temporary or permanent impact;
- (c) a past, present or future impact;
- (d) an impact which is cumulative over time or in combination with other impacts regardless of its scale, intensity, duration or frequency,
- (e) an impact of high probability; and
- (f) an impact of low probability which has a potentially high impact;

"land" includes land covered by water including the territorial sea, all things growing on land, and buildings and other things permanently fixed to land, but does not include minerals (including oils and gases) or any substances in or under land which are of a kind ordinarily removed by underground or surface working;

"landowner", in respect of a registered interest, means the person in whose name the interest is registered, and concerning customary land, means the person or persons regarded as the owner or owners of the land according to existing customary usage;

"level" concerning noise, includes the volume or intensity of the noise;

"licence" means a licence granted under this Act;

"Minister" means the Minister responsible for conservation and environmental matters;

"mitigation" includes –

- (a) avoiding an impact by not taking a particular course of action as part of development;
- (b) minimising an impact by limiting the scale of the action or changing the method of carrying out an action;
- (c) rectifying an impact by repairing, rehabilitating, or restoring the affected environment;
- (d) reducing or eliminating an impact over time by conservation and maintenance action regarding development activities; or
- (e) compensating for the impact by replacing or providing substitutes for the resources or environment;

"noise" includes sound and vibration;

"noise control equipment" means –

- (a) any device used to prevent or limit the emission of noise; and
- (b) any device used or able to be used for indicating or recording the emission of noise;

"occupier", concerning any premises, means a person who occupies or controls those premises or part thereof, whether or not that person owns the premises or that part;

"offensive noise" means noise made in or outside public premises, or outside private premises that, by reason of its level, nature, character or quality, or the time at which it is made is likely

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- (a) to be harmful;
- (b) to be offensive; or
- (c) to interfere unreasonably with the peace, comfort or convenience of any person;

"plant" means any plant, equipment, apparatus, device, machine or mechanism, and includes any vessel, dredge or crane, but does not include a motor vehicle;

"pollution" means the direct or indirect alteration of the environment -

(a) to its detriment or degradation; or

(b) to the detriment of any beneficial use, and includes pollution as prescribed by regulations;

"premises" means residential, commercial, industrial or other premises of any kind and includes land;

"prescribed development" means development prescribed under Part III;

"proposed development" means any development that is proposed to be carried out by any person;

"public authority" means -

(a) any Ministry or Division of the Central or Provincial Governments, Area Council or Town Council, agency, authority, statutory body or administrative office;

(b) in relation to development consent, the Ministry or government body by whom or on whose behalf the proposal is to be carried out, or any other Ministry or government body whose consent is required to enable the development to be carried out;

"public environmental report" means a brief report presenting the results of a preliminary environmental assessment of an existing or proposed development under Part III;

"sustainable development" means the management or the human use, development, conservation, protection, maintenance and enhancement of the natural, physical and cultural resources of Solomon Islands in a way or at a rate, which enables people and communities to provide for their social, economic and cultural well-being and for their health and safety while -

(a) sustaining the potential of natural and physical resources to meet the needs of future generations;

(b) using, developing or protecting renewable natural and physical resources so that their ability to yield long-term benefits is not endangered;

(c) using, developing or protecting non-renewable natural resources so as to lead to an orderly and practical transition to adequate substitutes including renewable resources;

(d) safeguarding the life-supporting capacity of air, water, soil and ecosystem; and

(e) avoiding, remedying or mitigating any adverse effects of development on the environment;

"trade" includes commercial undertaking;

"vessel" means ship, lighter, barge, oil rig, boat, canoe, craft, jet ski, or vessel of any description;

"waste" includes matter -

(a) whether liquid, solid, gaseous or radioactive, whether toxic or not, which is discharged into the environment; or

(b) prescribed by regulation to be waste.

Objects of the Act

3. The objects of the Act shall be -

- (a) to provide for and establish integrated systems of development control, environmental impact assessment and pollution control;
- (b) to prevent, control and monitor pollution;
- (c) to reduce risks to human health and prevent the degradation of the environment by all practical means, including the following -
 - (i) regulating the discharge of pollutants to the air, water or land;
 - (ii) regulating the transport, collection, treatment, storage and disposal of wastes;
 - (iii) promoting recycling, re-use and recovery of materials in an economically viable manner;and
- (d) to comply with and give effect to regional and international conventions and obligations relating to the environment.

Effect of this Act on other Acts

4. (1) In the event of any conflict between the provisions of this Act and the provisions of any other Act the provisions of this Act shall, to the extent of any inconsistency prevail.
- (2) Compliance with the requirements of this Act shall not absolve a person from separate compliance with any other law of Solomon Islands including any Provincial Assembly or Area Council Ordinance or Town Council by-law insofar as they are not inconsistent with this Act.

PART II ADMINISTRATION

Division 1 Establishment of Environment and Conservation Division

Establishment of Division and appointment of Director and other officers.

5. (1) There shall be established for the purposes of this Act, an Environment and Conservation Division which shall consist of -
- (a) a Director;
 - (b) Environmental Inspectors; and
 - (c) such other officers as may be necessary for the due administration of the Act.
- (2) Any appointment made under subsection (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.

Functions of the Division.

6. (1) The functions of the Division shall be to -

- (a) protect, restore and enhance the quality of the environment of Solomon Islands, having regard to the need to promote sustainable development;
- (b) develop, establish and administer systems of prevention and control of pollution in both the industrial and non-industrial sectors;
- (c) develop national standards to promote sustainable development and to monitor those standards through environmental auditing;
- (d) assist in developing legislation for systems of environmental planning at national, provincial and local level, and the development of national, provincial and local environmental plans;
- (e) collaborate with relevant public authorities in assisting in the conservation and management of world heritage properties;
- (f) promote the participation of the community in environmental decision-making;
- (g) ensure freedom of and access to information on environmental matters, and in particular to ensure that the community has access to relevant information about hazardous substances arising from, or stored, used or sold by any industry or public authority;
- (h) set compulsory standards for environmental improvement;
- (i) conduct public education and awareness programmes about the environment;
- (k) promote the study of the environment through research, surveys, listing and classification.

(2) For the purposes of promoting sustainable development as envisaged under subsection (1)

(a), the Division shall as far as practicable be guided by the following –

- (a) the precautionary principle, that lack of scientific certainty should not be used as a reason for not acting to prevent serious or irreversible environmental damage or degradation;
- (b) fairness for future generations in that the present generation should ensure that the health, diversity, and productivity of the environment is maintained or enhanced for the benefit of future generations;
- (c) conservation of biological diversity and ecological integrity; and
- (d) improved valuation and pricing of environmental resources.

Functions and powers of the Director.

7. For the purpose of performing his functions under this Act, and subject to the provisions of this Act, the Director shall have power to -

- (a) manage and control the affairs of the Division;
- (b) advise the Minister on matters concerning the environment and in relation to any of the functions, powers and responsibilities of the Division;
- (c) promote co-ordination among Ministries and government divisions;
- (d) revise and amend the national environmental strategies and programme as necessary;
- (e) develop, co-ordinate and facilitate implementation of national policy concerning environmental planning, environmental impact assessment and pollution control;

- (f) monitor and advise on international developments in environmental matters and to ensure the fulfilment of obligations of Solomon Islands under the relevant international and required treaties and conventions;
- (g) develop a comprehensive community participation policy concerning all aspects of the Division's work, and facilitate the implementation of such policy;
- (h) conduct and promote environmental research, environmental education, and environmental quality objectives; and
- (i) carry out such other acts as he thinks necessary to properly discharge the functions and generally for carrying out the objects of this Act.

Environmental report

8. The Director shall in every three years submit a report on the state of the environment to the Minister, who shall cause such report to be laid before the National Parliament.

(2) The report may, *inter alia*, include -

- (a) an assessment of the state and condition of the major natural resources of Solomon Islands;
- (b) an examination of environmental trends, including implications for the environment and human health;
- (c) a review of programmes and activities carried on by the private sector, public authorities and non-government organisations that have a direct or indirect bearing on the functions of the Division;
- (d) an examination of trends in economic analysis and of cost-effectiveness of controls associated with any of its functions and responsibilities; and
- (e) any general recommendations for future legislative or other action which the Director considers appropriate to carry out the Division's functions and responsibilities.

Performance targets for public authorities

9. The Director may advise any public authority on performance targets, (including pollution control and other environment protection standards) in respect of any matter or activity which may have a direct or indirect bearing on the functions of the Division.

Power to give directions to public authorities

10. The Director may in consultation with the Minister, where he deems it necessary direct any public authority -

- (a) to do anything within the powers of that public authority which, in the opinion of the Director, contributes to the achievement of the objects of the Act; or
- (b) to refrain from doing any act which, in the opinion of the Director, detracts from the achievements of the objects of the Act.

Power of entry of Inspectors

11. Subject to the provisions of subsections (2) and (3) an Inspector may enter -

- (a) any land or building other than a dwelling house at any time; and
- (b) a dwelling house at a reasonable time during daylight.

(2) An Inspector shall not exercise the powers conferred by subsection (1) except for the purpose of –

- (a) ascertaining the character and condition of the land, building, water or reef; or
- (b) investigating an alleged offence.

(3) The powers conferred by subsection (1) shall not be exercised unless reasonable notice has been given to the owner or occupier of the land, building or dwelling house.

Minister's power to issue general directions to the Director

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

Division 2

Establishment, functions and powers of the Environmental Advisory Committee

Establishment of Advisory Committee

13. (1) There shall be established for the purposes of this Act, a body to be called the Environmental Advisory Committee (hereinafter referred to as the "Advisory Committee").

(2) The provisions of the First Schedule shall have effect First Schedule as to the constitution of the Advisory Committee or otherwise in relation thereto.

First Schedule

Functions and powers of the Advisory Committee

14. The functions of the Advisory Committee shall be to advise the Division or the Minister on any matters connected with environment and conservation referred to it by the Director or Minister for advice, and to conduct or perform any task assigned to it under the provisions of this Act.

PART III
DEVELOPMENT CONTROL, ENVIRONMENTAL IMPACT ASSESSMENT,
REVIEW AND MONITORING

General duty to consider environmental impact.

15. In considering the grant of approval for any existing or proposed development or further expansion in any existing development, the Director, the Division and the relevant public authority shall have regard as far as practicable to the effect such development or expansion would have on the environment.

Declaration of prescribed development.

16. (1) Development specified in the Second Schedule shall for purposes of this Act be classified as prescribed development.

Second Schedule.

(2) The Minister may where he sees fit, include in or delete from the said Schedule any development or proposed development.

Applications for approval

17. (1) Any developer who proposes to carry out any Applications for prescribed development in Solomon Islands shall make application to the Director in such form as may be approved by the Minister.

(2) On receipt of the application referred to in subsection (1), the Director shall within fifteen working days of such receipt advise the developer to submit -

(a) a development application accompanied by a public environmental report, together with any additional requirements as notified by the Director; or

(b) a development application accompanied by an environmental impact statement, together with any additional requirements as notified by the Director.

(3) Where the developer is a foreign investor, a certified copy of the Investment Board's certificate of approval shall be attached with the application.

(4) Where the Director decides to dispense with the requirements of subsection (2), he shall advise the developer accordingly within the time stipulated in that subsection.

(5) In determining as to whether the developer is required to submit a report referred to in paragraph (a) or (b) of subsection (2), the Director shall take into consideration the significant impact the development is likely to have on the environment and other factors that may be prescribed by regulations made by the Minister under section 55.

Requirement for information concerning existing prescribed development.

18. Any developer carrying on an existing prescribed development, who has not submitted a development application to the Director as required under section 17 shall, if required to do so in writing by the Director provide -

- (a) information of the nature of the activity carried on; and
- (b) unless, exempted by the Director –
 - (i) a development application; or
 - (ii) public environmental report or environmental impact statement, as the case may require, in accordance with this Part.

Consent required for prescribed development

19. (1) A developer shall not commence or continue consent carry out any prescribed development unless required for prescribed development.

- (a) a development application has been submitted to the Director, together with either a public environmental report or an environmental impact statement, as specified by the Director in section 17; and
- (b) the developer has been issued with a development consent under this Part; or
- (c) the Director has exempted the development from the requirements of this Part.

(2) Any person who carries on any prescribed development in breach of subsection (1) shall be guilty of an offence and be liable to a fine not exceeding ten thousand dollars or imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

Contents of public environmental report

20. Any public environmental report in respect of proposed and existing prescribed development shall –

- (a) describe the prescribed development in summary form, including its objectives and any reasonable alternatives to it;
- (b) describe any aspects of the prescribed development having or likely to have a substantial or important impact on the environment;
- (c) describe the environment likely to be affected by the prescribed development and any reasonable alternatives to it;
- (d) indicate the potential or actual impact of the prescribed development on the environment and of any reasonable alternatives to the prescribed development, including any enhancement of the environment;
- (e) outline the reasons for choice of the prescribed development;
- (f) describe and assess the effectiveness of any safeguards or standards intended to be adopted or applied for the protection of the environment;

- (g) state any intended investigations or studies of the possible impact on the environment before the prescribed development is implemented;
- (h) state any intended monitoring and reporting of the impact of the prescribed development; and
- (i) address any further matters that the Director may specify.

Requirement for further information.

21. The Director may, where he, deems it necessary require the developer to submit further information within a specified period.

Publication of public environmental report and procedure in respect of objections and appeal.

22. (1) The Director on being satisfied that a public environmental report meets the requirements of this Act, shall cause the public environmental report to be published in such manner as he considers adequate or most effective for the purpose of bringing it to the attention of all public authorities and other persons, whose interests are likely to be affected by the proposed development.

(2) Any public authority or person whose interests are likely to be affected by the proposed development may within thirty days from the date of publication of the notice referred to in subsection (1) make written objections to the Director in respect of the proposed development.

(3) On receipt of the written objections referred to in subsection (2), the Director shall examine the grounds of objections and where he deems it necessary after hearing the affected parties either -

- (a) consent to the development, or the continuation of that development, with or without conditions;
- (b) require the developer to produce an environmental impact statement and to conform with the provisions concerning environmental impact statements under this Part; or
- (c) refuse consent to the prescribed development.

(4) In making the decision the Director shall take into account -

- (a) the information contained in the development application and public environmental report;
- (b) any objections received under subsection (2) and any information provided in support of the objections; and
- (c) the objects of this Act.

Contents of environmental impact statement.

23. An environmental impact statement in respect of proposed and existing prescribed development shall –

- (a) contain a full description of the objectives of the prescribed development;
- (b) analyse the need for the prescribed development;
- (c) indicate the consequences of not implementing or carrying out the prescribed development;
- (d) include adequate information and technical data adequate to allow assessment of the impact of the prescribed development on the environment;
- (e) examine any reasonable alternatives to the prescribed development, including alternative sites for it;
- (f) describe the environment that is or is likely to be affected by the prescribed development and by any reasonable alternatives to it;
- (g) assess the actual or potential impact on the environment of the prescribed development and of any reasonable alternatives to it, including the primary, secondary, short-term, long-term, adverse and beneficial impacts on the environment;
- (h) outline the reasons for the choice of the prescribed development;
- (i) estimate the time period of any expected impacts;
- (j) describe the geographic boundaries of the impacts;
- (k) state the methods of predicting and assessing each impact from the construction, operational and where relevant, the de-commissioning phase of an implemented development and for each alternative presented;
- (l) justify the prescribed development in terms of environmental, economic, culture and social considerations;
- (m) identify and analyse all likely impacts or consequences of implementing the prescribed development, including implications for the use and conservation of energy;
- (n) describe measures to prevent or reduce significant adverse impacts and enhance beneficial effects and an account of their likely success with estimated costs as appropriate;
- (o) describe residual impacts which cannot be mitigated or can only be mitigated partially;
- (p) describe proposed monitoring and reporting schemes with estimated costs as appropriate;
- (q) describe and assess the estimated cost-effectiveness of any safeguards or standards for the protection of the environment to be adopted or applied including its implementation, monitoring and reporting;
- (r) give an account of the impact on the environment of any of a series or programme of similar development (whether implemented or not) over a period of time;
- (s) give any sources and references of information relied on and outline any consultations with any persons made during the preparation of the report;
- (t) include a site survey report concerning National Heritage items or traditional artifacts as specified by the Director;
- (u) address any further matters as the Director specifies; and
- (v) give a clear and concise summary printed on a separate page.

Publication of environmental impact statement and procedure in respect of objections and appeal.

24. (1) The Director on being satisfied that an environmental impact statement meets the requirements of this Act shall cause such statement to be published in such manner as he considers adequate or most effective for the purpose of bringing it to the attention of all public authorities, and other persons whose interests are likely to be affected by the proposed development.

(2) Any public authority or person whose interests are likely to be affected by the proposed development may within thirty days from the date of publication of the notice referred to subsection (1) make written objections to the Director in respect of the proposed development.

(3) On receipt of the written objections referred to in subsection (2), the Director shall examine the grounds of objections, and where he deems it necessary after hearing the affected parties either -

- (a) issue a consent to the development with or without conditions; or
- (b) refuse consent.

Development to be carried out in accordance with development consent.

25. (1) A developer shall not carry on any development except in accordance with the development consent.

(2) An Inspector may at any time if he has reason to believe that any person is responsible for, or substantially involved in any development, request such person to produce within a reasonable time evidence of the development consent.

(3) If any Inspector is not satisfied that a development consent authorising the particular development exists, or where the person requested under this section fails within a reasonable period to produce such evidence, the Inspector may issue a notice in writing requiring all persons involved in the development to immediately discontinue such development.

Offence of providing false or misleading information.

26. A developer who knowingly provides false or misleading information to the Director or to any public authority concerning matters required to be addressed in a public environmental report or in an environmental impact statement is guilty of an offence and liable on conviction to a fine not exceeding ten thousand dollars or to imprisonment for a period of twelve months or to both such fine and imprisonment.

Prescribed forms.

27. Public environmental reports and environmental impact statements shall be in such form as prescribed by regulations.

(2) The Director shall make the records referred to subsection (1) available for perusal to the

public during normal working hours.

Director to keep records.

28. (1) The Director shall keep proper records of all development applications, environmental impact assessments, public environmental reports and development consents.

Director to issue guidelines for assessment of reports and statements.

29. The Director, in consultation with the Minister, may issue guidelines for assisting the Division and the relevant public authority in assessing and evaluating any report, statements or other information.

Responsibility for public environmental report, etc.

30. The developer shall be responsible for all expenses incurred in the preparation and publication of the public environmental reports and the environmental impact statements.

Monitoring environmental aspects of development.

31. (1) The Director or any relevant public authority may at any time, whether before or after a development activity has been completed, monitor, or cause to be monitored, all or any of the environmental aspects of the implemented development activity.

(2) In the performance of any functions under subsection (1), the Director or any relevant public authority shall have regard to the effectiveness of any safeguards or standards adopted for the protection of the environment and the accuracy of any forecasts of the environmental impacts of the development activity.

(3) The Director or public authority referred to in subsection (1) may give such directions to the developer to ensure that appropriate safeguards and steps are taken by the developer to mitigate any adverse environmental aspects.

(4) The developer shall comply with the directions of the Director or the relevant public authority issued pursuant to this section.

Appeal to Advisory Committee

32. (1) Any developer or person who disagrees with any decision of the Director under this Part may within thirty days of publication of the decision appeal to the Advisory Committee.

(2) The appeal shall be in writing and clearly set out all grounds of the appeal. A copy shall be served on the Director and on any relevant public authority.

(3) The appellant shall pay to the Division the appeal fee prescribed by regulations by the Minister.

(4) The appeal shall be heard in public, and if the Advisory Committee's decision materially changes the Director's decision, it shall be published in such manner so as to bring it to the notice of persons affected.

(5) The Advisory Committee in hearing an appeal shall give the appellant, the Director and any relevant public authority a reasonable opportunity of being heard. The Advisory Committee may by a majority decision either confirm the Director's decision or substitute its own decision for that of the Director.

(6) The lodging of an appeal does not operate in any way to affect the decision appealed from.

(7) Any person aggrieved by the decision of the Advisory Committee may within thirty days from the date of such decision appeal to the Minister who shall make such order as he considers just.

Development consents non-transferable.

33. (1) A developer shall not transfer a development, consent granted under this Part.

(2) Any transfer of shareholding in a company or other change of ownership which has the effect of substantially changing the identity of the developer which has been granted a development consent shall be deemed to be a transfer contrary to this section, and shall render the development consent invalid.

PART IV CONTROL OF POLLUTION

Causing pollution and noxious discharges.

34. No person shall emit or cause to be emitted from any premises noise, odour or electromagnetic radiation which unreasonably interferes with the health, welfare, convenience, comfort or amenity of any person.

Discharge of waste in circumstances in which it is likely to cause pollution.

35. No person shall cause or allow waste to be placed in any position from which the waste could reasonably be expected to gain access to any part of the environment and is likely to result in pollution.

Occupiers of premises to take certain measures.

36. The occupier of any premises shall -

(a) comply with any prescribed standard for the discharge of waste or the emission of noise, odour or electromagnetic radiation from such premises.

(b) take all reasonable and practicable measures to prevent or minimise the discharge of waste and the emission of noise, odour or electromagnetic radiation from such premises.

Penalties for breach of section 34 or 35.

37. Any person who contravenes the provisions of sections 34 or 35 shall be guilty of an offence and be liable on conviction to a fine not exceeding ten thousand dollars or to

imprisonment for a period not exceeding twelve months or to both such fine and imprisonment.

Occupiers of prescribed premises to obtain a licence for discharge of waste or emissions of noise, odour or radiation.

38. (1) Subject to the provisions of this Act, no person who occupies a prescribed premises shall-

(a) cause or increase, or permit to be caused or increased, the discharge of waste or the emission of noise, or electromagnetic radiation from the prescribed premises; or

(b) alter or permit to be altered the nature of the waste discharged or noise, odour or electromagnetic radiation emitted from the prescribed premises,

unless in accordance with any conditions of the licence.

(2) Any occupier of a prescribed premises who contravenes the provisions of subsection (1) shall be guilty of an offence and be liable on conviction to a fine not exceeding five thousand dollars or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

Application for licence.

39. (1) An application for a licence to discharge waste, emit noise, odour or electromagnetic radiation from a prescribed premises shall be made to the Director in the prescribed form and -

(a) be accompanied by the prescribed fee; and

(b) include any information, plans, specifications and other documents and information as the Director may require.

(2) On receiving an application, the Director shall advise the applicant that the application either complies with the requirements of subsection (1) or where it does not meet the requirements of the aforesaid subsection inform him accordingly.

(3) Where the application complies with subsection (2), the Director shall seek comments on it from any public authority or person who in the opinion of the Director, has a direct interest in the subject matter of the application.

(4) The Director shall on receipt of comments from the person mentioned in subsection (3), take into account any comments received and may either -

(i) grant a licence subject to such conditions as he may specify; or

(ii) refuse to grant the licence.

Revocation, suspension or amendment of licences by Director.

40. (1) The Director may, by notice in writing served on the licensee revoke or suspend the licence, if the Director is satisfied that there has been a breach of any of the conditions of the licence issued pursuant to section 39.

(2) The Director may at any time amend the licence, by notice in writing, in the manner prescribed by regulations.

Duty of persons becoming occupiers of prescribed premises.

41. (1) A person who is the occupier of any prescribed premises in respect of which a licence is in force shall comply with the conditions of the licence and within thirty days of coming into occupation of the prescribed premises apply for the transfer of the licence to him.

(2) Where the Director has reason to believe that the change of occupier of the prescribed premises would not cause a breach of the conditions of the licence, he may transfer the licence to the new occupier with or without further conditions or otherwise refuse such transfer.

Conditions of licence.

42. The licence issued pursuant to section 39 may be subject to one or more of the following conditions, namely that -

(a) the specified pollution control equipment is installed and operated in the manner specified;

(b) specified measures are taken to minimise the likelihood of pollution due to any activity conducted or proposed to be conducted in the premises;

(c) within any specified time, monitoring equipment of a specified type is provided on the premises;

(d) within any specified time a monitoring programme is carried out to supply information concerning the characteristics, volume and effects of -

(i) the waste that is being or is to be discharged from those premises into the environment; or

(ii) the noise, odour or electromagnetic radiation that is being or is to be emitted from those premises into the environment;

(f) where practicable, measures are taken to or make available for re-use all or part of the waste;

(g) any equipment be operated as specified so as to prevent, control or abate pollution; or

(h) the licensee complies condition the Director prescribes.

(2) The person occupying the premises shall carry out any monitoring programme as required in the licence and supply all information recorded as a result of that programme to the Director in the specified manner.

Pollution abatement notice.

43. The Director may serve or cause to be served on the owner or the occupier of any premises a pollution abatement notice, if the Director is satisfied that -

- (a) waste matter is being or is likely to be discharged; or
- (b) any noise, odour or electromagnetic radiation is being or is likely to be emitted, from the premises into the environment;
- (c) that waste matter or noise, odour or electromagnetic radiation does not comply with, or would not if it were discharged or emitted into the environment comply with -
 - (i) any standard under an approved policy; or
 - (ii) any prescribed standard; or
- (d) waste or noise, odour or electromagnetic radiation has caused or is causing or likely to cause pollution.

(2) A pollution abatement notice -

- (a) shall set out the reason for the notice; and
- (b) may require persons affected by it to take any measures the Director considers necessary to prevent, control or reduce the discharge of waste or emission of noise, odour or electromagnetic radiation to which the notice relates in the manner specified in the notice.

(3) Where a pollution abatement notice is in force it shall apply to each person who is the owner of the occupier of the premises on whom it is served and binds each successive owner or occupier of the premises or the land to which the notice relates.

(4) The Director may revoke a pollution abatement notice in writing.

(5) The Director may amend the pollution abatement notice -

- (a) by extending the time to comply with any requirement in the notice if the Director is satisfied that the circumstances of the case justify such an extension; or
- (b) by revoking or amending any requirement in the notice.

(6) A person to whom a pollution abatement notice applies shall comply with the requirements contained in the notice.

(7) Before extending or amending a notice, the Director shall give the person a reasonable opportunity to state in writing his objections, if any.

(8) Any occupier of a premises who fails to comply with any matters referred to in this section shall be guilty of an offence and be liable on conviction to a fine not exceeding five thousand dollars or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

Outgoing owner or occupier to notify the Director and successor in ownership or occupation.

44. Where a person who is the owner or occupier of premises to which a pollution abatement notice applies, ceases to be such an owner or occupier, he shall in writing notify -

- (a) the Director of that fact, and of the name and address of any person who succeeds him as owner or occupier of the premises; and
- (b) the person who succeeds him as owner or occupier or both that the pollution abatement notice is binding on such person.

Environment Inspector may serve stop notice.

45. (1) An Inspector may in consultation with the Environment Director serve a stop notice on a person if he is satisfied that - inspector may serve stop notice.

- (a) such person has not complied with any of the requirements contained in the pollution abatement notice; and
- (b) the non-compliance is causing or is about to cause conditions seriously detrimental to the environment or dangerous to human life or health.

(2) After serving the stop notice, the Inspector may take or may cause to be taken such steps as he considers necessary -

- (a) to stop the carrying on of the trade, process or activity, and to close down the particular premises; and
- (b) to take measures so as to prevent or minimise the ill-effects such non-compliance has on the environment and on the health of the population.

(3) The cost of taking the steps under subsection (2) is a debt due to the Government and may be recovered by action in a court of competent jurisdiction.

(4) An Inspector in consultation with the Director, may amend, or, if satisfied that steps have been taken to ensure that the conditions referred to in subsection (1) have been abated, revoke such order by notice served on the person.

(5) An Inspector who serves a stop notice referred to in subsection (1), shall notify the director in writing within 7 days of the details of the notice.

(6) Any person who fails to comply with a notice made under this section shall be guilty of an offence and be liable on conviction to a fine not exceeding five thousand dollars or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

Records of licences, pollution abatement notices and stop notices.

46. The Director shall record details of the following -

- (a) licences (including applications for renewals or transfers);
- (b) pollution abatement notices; and
- (c) stop notices.

Powers concerning discharge of waste and creation of pollution.

47. (1) Where any waste has been or is being discharged or is likely to be discharged from any premises in breach of a licence, stop notice or a pollution abatement notice, an Inspector may in writing advise any person or assist such person to remove, disperse, destroy, dispose of or otherwise deal with the waste.

(2) Any expenses incurred by the Division in assisting the removal, disposal, destruction, disposal or other dealing, in the prevention, control or abatement, may be recovered from the person who -

(i) was the occupier of the premises at the time of that discharge; or

(ii) caused or permitted to be caused such discharge or was responsible for such discharge, by action in a court of competent jurisdiction as a debt due to the Government and shall pay any costs so recovered into the Consolidated Fund.

Defences to certain proceedings.

48. It shall be a defence to proceedings for an offence under this Part if the person charged with the offence proves that -

(a) the discharge or emission occurred -

(i) for the purpose of preventing danger to human life or health or irreversible damage to a significant portion of the environment; or

(ii) as a result of an accident which was beyond such person's control and not caused by the negligence of such person;

(b) the person who occupies or owns the premises took all reasonable precautions to prevent that discharge or emission;

(c) as soon as was reasonably practicable after that discharge or emission the Director was notified in writing by the person of the particulars therefore; or

(d) the discharge or emission complies with any prescribed standard, licence or requirement in a pollution abatement notice, or a condition to a development consent, or an approved policy agreed or decided under this Act.

Discharges from vehicles or vessels.

49. (1) No person shall drive a vehicle capable of discharging any matter into the environment on a road, public place or reserve unless the vehicle complies with the prescribed discharge standards.

(2) No person shall sail or conduct a vessel capable of discharging any matter into the environment unless the vessel complies with the prescribed discharge standards.

(3) Any person who contravenes any provisions of this section or any regulations relating to discharge standards shall be guilty of an offence and be liable on conviction to a fine not

exceeding five thousand dollars to imprisonment for a period not exceeding five months or to both such fine and imprisonment.

Interference with anti-pollution devices on vehicles or vessels.

50. (1) A person shall not remove, disconnect or impair, a device fitted to a vehicle or vessel for the purpose of preventing the discharge of waste matter or controlling noise.

(2) A person shall not adjust or modify, or permit to be adjusted or modified, a device fitted to a vehicle or vessel, if the adjustment or modification results in the discharge into the environment of any waste matter or in the emission of any noise that does not comply with the prescribed standard.

(3) Any person who contravenes any provisions of this section or any prescribed standard shall be guilty of an offence and be liable on conviction to a fine not exceeding five thousand dollars or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

Installation of equipment emitting unreasonable noise.

51. (1) A person shall not install on or in any premises any equipment which, when operated, emits unreasonable noise, or which the person knows or would reasonably have known to emit that noise when installed and operated.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and be liable on conviction to a fine not exceeding five thousand dollars or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

**PART V
MISCELLANEOUS**

Protection of officers.

52. No proceedings shall be instituted against any officer appointed under this Act for any act which is done in good faith or is purported to be done by him in the performance of his duties on the discharge of his functions under this Act.

Offences by corporation.

53. Where a corporation is guilty of an offence under this Act, any officer, director, or agent of such corporation who authorised, assented to or participated in, or by his 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.

General penalty.

54. A person guilty of an offence against any provision of this Act for which no penalty is elsewhere prescribed is liable on conviction in a Magistrate's Court to a fine not exceeding one thousand dollars or, in default of payment, to imprisonment not exceeding one year.

Regulations.

55. (1) The Minister may make regulations, prescribing all matters that are required or permitted to be prescribed or as the Minister may consider necessary or desirable to be prescribed for generally carrying out or giving effect to this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations -

- (a) prescribing the application forms to be used;
- (b) prescribing the manner in which and the persons who may make applications;
- (c) requiring information to be furnished by an owner, occupier, developer or any other person;
- (d) prescribing the manner in which impact predictions and environmental impact statements may be made;
- (e) prescribing the manner in which objections may be made to proposed or existing development;
- (f) prescribing the form and contents of public environmental reports, environmental impact statements and notices;
- (g) for the manner in which records may be kept;
- (h) prescribing the fees or charges that may be levied for forms, applications or other services rendered by the Division;
- (i) for the form of licences, stop notices and pollution abatement notices;
- (j) setting out discharge and other standards in respect of vehicles and vessels; and
- (k) prescribing anything which is required or permitted to be prescribed by regulations made under this Act.

FIRST SCHEDULE (Section 13)

Constitution of the Advisory Committee.

1. (1) The Advisory Committee shall consist of a Chairman, Vice Chairman and not more than eight other members, who shall be appointed by the Minister and the terms of their appointments shall be as determined by the Minister.

(2) The Advisory Committee may, at any time, where it deems it necessary or expedient, in consultation with the Minister co-opt to the committee any person to assist the committee in any matter which the committee believes requires expert or specialised advice.

Terms of office.

2. (1) Every member of the Advisory Committee shall subject to the provisions of this Schedule hold office in accordance with the terms of this appointment.

(2) The Chairman, Vice Chairman and other members shall be appointed for a term not exceeding four years.

Revocation of appointment.

3. Notwithstanding the provisions of paragraph 2 or the terms of his appointment any member may at any time by notice in writing given under the hand of the Minister be deprived of his membership of the Committee-

- (a) if he is declared an undischarged bankrupt;
- (b) if in the opinion of the Minister he is guilty of any offence of a fraudulent character; or
- (c) if he has conducted himself in such way which in the opinion of the Minister renders him unfit to remain in office.

Reimbursement of members.

4. Save as provided in this Schedule, the Advisory Committee shall not make to any of its members any payment by way of remuneration for his services as a member, but may reimburse to any such member expenses reasonably incurred by him in the performance of such services.

Remuneration.

5. The members may be paid such honorarium, or such allowances as the Minister may determine.

Protection of members.

6. No action, suit or prosecution or other proceedings shall be brought against any member of the Advisory Committee in respect of any act done *bona fide* in pursuance or execution or intended execution of the provisions of this Act.

Proceedings and quorum.

7. (1) The Advisory Committee may act notwithstanding a vacancy among its members and the validity of any proceedings of the Advisory Committee shall not be affected by any defect in the appointment of a member.

(2) The quorum of the Advisory Committee shall be five members personally present, or such greater number as the Advisory Committee may from time to time determine.

(3) The Chairman, Vice Chairman and all other members shall be eligible for re-appointment.

(4) A member may at any time by notice in writing to the Minister resign his office.

Proceedings and quorum.

8. Subject to the provisions of this Schedule, the Proceedings and Advisory Committee may regulate its own proceedings.

Appointment of sub-committees, etc.

9. (1) The Advisory Committee may appoint subcommittees or panels to exercise or advise it on the exercise of, any of its functions, and may -

(a) appoint to any such sub-committees or panel, persons who are not members of the Advisory Committees; and

(b) at any time revoke the appointment of any member of any such sub-committee or panel.

(2) The Advisory Committee may appoint as Chairman of any such sub-committee or panel any member, who is a member of the Advisory Committee.

Procedure of sub-committees, etc.

10. The Advisory Committee may regulate the procedure of any sub-committee or panel appointed pursuant to paragraph 9.

Attendance of meetings by public officers.

11. Any public officer appointed by the Minister under the provisions of this Schedule to be a member of the Advisory Committee or any sub-committee or panel shall be entitled to attend any meeting of the Advisory Committee, sub-committee or panel, as the case may be.

**SECOND SCHEDULE
(Section 16)**

PRESCRIBED DEVELOPMENTS

1. FOOD INDUSTRIES including

(a) fruit processing, bottling and canning

(b) brewing, malting and distillery works

(c) abattoirs

(d) other food processing requiring packaging

2. IRON AND STEEL INDUSTRIES

NON-METALLIC INDUSTRIES including

(a) lime production

- (b) brick and tile manufacture
- (c) extraction of minerals and mining
- (d) extraction of aggregates stones or shingles
- (e) radio-active related industries
- (f) manufacture of cement

4. LEATHER, PAPER, TEXTILE AND WOOD INDUSTRIES including

- (a) leather tanning and processing
- (b) textile industry with dyeing facilities
- (c) carpet industry with chemical dyeing
- (d) manufacture of paper, pulp and other wood products

5. FISHING AND MARINE PRODUCT INDUSTRY including logging operation, saw milling, all forms of timber processing and treatment

6. CHEMICAL INDUSTRY including

- (a) pesticide production and use
- (b) pharmaceutical production
- (c) fertiliser manufacture and use
- (d) oil refineries

7. TOURISM INDUSTRY including

- (a) hotels
- (b) golf courses
- (c) recreational parks
- (d) tourism resorts or estates

8. AGRICULTURE INDUSTRY including

- (a) livestock development
- (b) agricultural development schemes
- (c) irrigation and water supply schemes

9. PUBLIC WORKS SECTOR including

- (a) landfills

- (b) infrastructure developments
- (c) major waste disposal plants
- (d) soil erosion and siltation control
- (e) hydropower schemes
- (f) reservoir development
- (g) airport developments
- (h) waste management, drainage and disposal systems
- (i) dredging
- (j) watershed management
- (k) ports and harbours

10. OTHER

- (a) industrial estates
 - (b) housing development schemes
 - (c) settlement and resettlement schemes
 - (d) petroleum product storage and processing works.
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