

Water Supply (Amendment) Act No 09 of 1993

Commencement: 12 July 1993

REPUBLIC OF VANUATU

WATER SUPPLY (AMENDMENT) ACT NO. 9 OF 1993

Arrangement of Sections

1. Insertion of new PART III Chapter 24
2. Commencement

Assent: 21/06/93

Commencement: 12/07/93

WATER SUPPLY (AMENDMENT) ACT NO. 9 OF 1993

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

BE IT ENACTED by the President and Parliament as follows:-

INSERTION OF NEW PART III IN CHAPTER 24

1. The following new PART is inserted after PART II of the water Supply Act [CAP.24]:-

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

INTERPRETATION

21. In this Part unless the context otherwise requires:-

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

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

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

"Minister" means minister responsible for water supply;

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

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

AGREEMENT OR CONTRACT GRANTING THE SOLE CONCESSION TO SUPPLY WATER WITHIN AREA OF CONCESSION

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

(2) The agreement or contract entered into under subsection (1) shall be for such period not exceeding 15 years and the terms and conditions of that agreement or contract shall be subject to the provisions of this Part.

TRANSFER OF THE USAGE, MANAGEMENT AND MAINTENANCE OF GOVERNMENT WATER SUPPLY TO THE CONCESSIONAIRE

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

PENALTY FOR OTHER PERSONS PROVIDING THE SUPPLY OF WATER

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

POWERS AND DUTIES OF THE CONCESSIONAIRE

25. In the exercise of the powers or the performance of the duties and functions under the provisions of this Act or pursuant to any agreement or contract entered into under section 22, it shall be lawful for the Concessionaire to exercise such powers, perform all such functions or duties as are conferred on the Public Works Department or the Director of Public Works in respect of the water supply within the area of concession under the provisions of this Act or any other law.

GENERAL DUTIES OF THE CONCESSIONAIRE

26. It shall be the duty of the Concessionaire in the area of concession to:-

- (a) provide, develop, manage and maintain an efficient supply of water and distribute water for public, domestic or industrial purposes;
- (b) provide the supply of water and distribute it or sell water in bulk or otherwise, to any Government depot or any other institution, organization, body of persons, any individual or ship;
- (c) do all other acts and things as may be necessary for the purposes stated in paragraphs (a) and (b).

POWERS OF THE CONCESSIONAIRE

27. The Concessionaire may exercise all or any of the following powers:-

- (a) to carry out investigations and to collect and record data concerning the provision, development, management and maintenance of water supply within the area of concession;
- (b) to enter into and perform either directly or through duly authorized agents all such contracts as may be necessary for the performance of the duties and the exercise of the functions of the Concessionaire;

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

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

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

COMPENSATION

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

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

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

(b) the Director General of Finance; member;

(c) the Director of Public Works; member;

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

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

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

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

DAMAGE TO WORKS

29. Any person who wilfully or negligently injures or damages or causes to be injured or damaged any water mains installed, constructed or maintained by the Concessionaire under the authority of a concession agreement or contract or the provisions of this Act, shall be guilty of an offence punishable by a fine not exceeding VT30,000 or to imprisonment for a term not exceeding 3 months or by both such fine and imprisonment.

WASTING OR DIVERTING THE SUPPLY OF WATER

30. Any person who causes to be wasted or diverted any water supplied by the Concessionaire shall commit an offence punishable by a fine not exceeding VT30,000.

ASSAULT, OBSTRUCTION ETC. OF AUTHORISED OFFICER

31. Any person who assaults, molests, hinders or obstructs any authorised officer, servant or agent in the exercise of any of the powers conferred or in the execution of any works authorised by authority of the concession agreement or contract or the provisions of this Act, shall be guilty of an offence punishable by a fine not exceeding VT30,000 or to imprisonment for a term not exceeding 3 months or to both such fine and imprisonment.

REGULATIONS

32. The Minister may make regulations, not inconsistent with the provisions of this Act, or the terms of any concession agreement or contract, generally for giving effect to the provisions of this Act and such regulations may impose penalties for the breach thereof not exceeding a fine of VT30,000."

COMMENCEMENT

2. The Act shall come into force on the day of its publication in the Gazette.
