



ENVIRONMENT BILL 2023

(NO. [] OF 2023)



ENVIRONMENT BILL 2023

(NO. [] OF 2023)

A

BILL

Entitled

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

ENACTED BY THE NATIONAL PARLIAMENT OF SOLOMON ISLANDS.

ENVIRONMENT BILL 2023

Table of provisions

Part 1	Preliminary matters	1
1	Short title	1
2	Commencement	1
3	Definitions	1
4	Objects of the Act	5
5	Effects of this Act on other Acts	6
6	Application of this Act	6
7	Act binds the Crown	6
Part 2	Administration.....	7
Division 1	Establishment of the Environment and Conservation Division	7
8	Establishment of Division and appointment of Director and other officers.	7
9	Functions of the Division	8
10	Functions and Powers of the Director	9
11	Environment Report	10
12	Performance targets for public authorities	11
13	Power to give directions to relevant public authorities	11
14	Minister's power to issue general directions to the Director	11
Division 2	Establishment, functions and powers of the Environment Board	11
15	Establishment of Environment Board	11
16	Functions and Powers	11
17	Membership and Procedures	12
Part 3	Development Control and Monitoring	12
Division 1	Preliminary matters	12
18	Prescribed Development	12
19	Offences relating to development Consent	12

Division 2	Proposal Application	13
20	Requirement for proposal application	13
21	Decision on Proposal application	13
22	Assessment Panel	14
23	Certified Environment Impact Assessment Practitioner	15
24	Contents of public environmental report	15
25	Contents of environmental impact statement	16
Division 3. Making a development application		18
26	Publication of development application	18
27	Submission in relation to development application	19
28	Consideration of development application by Assessment Panel	19
29	Decision by Board	20
30	Conditions of development consent	20
Division 4	Monitoring and Enforcement	20
31	Monitoring environmental aspects of development	20
32	Right to request evidence of development consent	21
33	Stop work notice	21
34	Variation, suspension and revocation of development consent	22
Division 5	Miscellaneous matters	23
35	Transfer of development consent	23
36	Director to keep records	23
Part 4	CONTROL OF POLLUTION AND WASTE	24
37	Waste Management Procedures	24
38	Declaration of classes of hazardous waste	24
39	Regulation according to International Law	25
40	Causing Pollution	25
41	Discharge of waste	25
42	Occupiers of Premises to take certain measures	26
43	Application for licence	26
44	Offence in relation to Licence to store, emit and discharge waste or pollutants	27
45	Revocation, suspension or amendment of licences by Director	27
46	Transfer of Licence	28

47	Conditions of Licence	28
48	Pollution abatement notice	29
49	Outgoing owner or occupier to notify the Director and succession in ownership or occupation	30
50	Environment Inspector may serve stop notice	31
51	Change in occupier of premises	32
52	Records of licences, pollution abatement notices and stop notices	32
53	Powers concerning storage or discharges of waste and creation of pollution	33
54	Defences to certain proceedings	33
55	Discharges from vehicles, vessels and aircraft	34
56	Interference with anti-pollution devices on vehicles, vessels, or aircraft	34
57	Installation of equipment emitting unreasonable noise	35
58	Regulations relating to waste and pollution	35
Part 5	Management of Chemicals	35
59	Dangerous substances and Persistent Organic Pollutants	35
60	Definitions	35
61	Regulations relating to dangerous substances	36
62	Regulations relating to persistent organic pollutants	36
Part 6	Review of Decisions	37
63	Reviewable Decisions	37
64	Application for review	37
65	Application does not affect operation of reviewable decisions	38
66	Review by Board	38
Part 7	General Enforcement and Offence Provisions	38
Division 1	Enforcement Provisions	38
67	Power of entry	38
68	Powers of Investigation	39
69	Powers of Arrest	40
Division 2	General Offences	40
70	False representation as an Inspector	40

71	Obstruction of Inspector	40
72	False or misleading information	40
Part 8	MISCELLANEOUS.....	41
73	Protection from Liability	41
74	Approved forms	41
75	Delegation	42
76	Offences by corporation	42
77	General penalty	42
78	Environment Levy	42
79	Environment Bond	42
80	Regulations	42
FIRST SCHEDULE		44
SECOND SCHEDULE		48
THIRD SCHEDULE		52
FOURTH SCHEDULE		54

DRAFT

ENVIRONMENT BILL 2023

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Environment Act 2023*.

2 Commencement

This Act commences on the day appointed by the Minister by notice in the *Gazette*.

3 Definitions

In this Act:

“**approval**” includes the granting of any consent, licence or permit required under this Act.

“**approved form**” means a form approved by the Director under section 74;

“**Assessment Panel**” means a Panel established under section 22;

“**Board**” means the Environment Board established by section 15;

“**conservation**” includes protection, maintenance and preservation;

“**development**” means foreign or local investment, enterprise or undertaking, industrial or commercial operation, scheme or change in land and sea use and includes;

- (a) the erection of a building or a 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 application” means an application made under section 26 to carry out a prescribed development;

“development consent” means a consent to carry out any prescribed 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 pollutant into the environment;

“Division” means the Environment and Conservation Division established under section 8;

“environment” includes all physical, biological, social, cultural and economic systems and their constituent parts, and the interactions of their constituent parts, including people, animals, plants, land, water, air, aesthetic, culture and social factors;

“environment audit” means the assessment of compliance with any environment requirements, standards or development consent conditions;

“environment harm” means any adverse impact on the environment as a result of human activity that has the effect of;

- (a) endangering human health and livelihood;
- (b) harming the environment;
- (c) impairing or interfering with cultural assets and values, amenities and other legitimate uses of the environment;

“environment impact assessment” means the assessment of environmental impacts of an existing or proposed development under Part III;

“environment impact statement” means a report presenting the results is an environmental impact assessment under Part III;

“Environmental Inspector” means a person:

- (a) appointed to be an Environment Inspector under section 8(1);
or
- (b) taken to be an Environmental Inspector under section 8(3) or (4);

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

“impact”, concerning the use, development or protection of the environment, includes the following:

- (a) a positive or adverse impact;
- (b) a temporary or permanent impact;
- (c) an impact which is cumulative over time or in combination with other impacts regardless of its scale, intensity, duration or frequency,
- (d) an impact of high probability; and
- (e) a trans- boundary or global impact; and
- (f) residual impacts

“Inspector” means an Environmental Inspector appointed under section 8 and such other authorised public officers under part 7;

“level” concerning noise, includes the volume or intensity of the noise;

“licence” means a licence granted under section 43;

“licensee” means the holder of a licence;

“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) compensation for the impact by replacing or providing substitutes for the resources of environment;

“noise” includes sound and vibration;

“occupier”, concerning a premises, means a person who occupies or controls those premises or part of the premises, whether or not that person owns the premises

“Permanent Secretary” means the Permanent Secretary of the Ministry responsible for the administration of this Act;

“pollutant” means any of the following that, when introduced into environment, have the potential to cause environmental harm:

- (a) a gas, liquid or solid;
- (b) dust, fumes, odour or smoke;
- (c) an organism (whether alive or dead)
- (d) heat, noise, vibrations or radioactivity, or light or other electromagnetic radiation;
- (e) a combination of 1 or more of the things described in paragraphs (a) to (d);

“pollution” means the introduction of a pollutant into the environment that causes environmental harm

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

“prescribed development” has the meaning given in section 18;

“proposal application” means an application for any development that is proposed to be carried out by any person;

“public body” means:

- (a) any Ministry or Division of the Central or Provincial Governments, Area Council or Town Council, agency,
- (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 environment report” means a report representing the results of a preliminary environmental assessment of an existing or proposed development under part III;

“reviewable decision” has the meaning given in section 63;

“stop notice” means a notice issued under section 50;

“stop work notice” has the same meaning given under section 33;

“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 wellbeing 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 non-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 an orderly and practical transition to adequate substitutes including renewable resources;
- (d) safeguarding the life-supporting capacity of air, water, soil an ecosystem; and
- (e) avoiding, remedying or mitigating any adverse effects or development on the environment;

“trade”, includes commercial undertaking;

“trans-boundary impact” means an impact on another country from an activity in Solomon Islands, or an impact on Solomon Islands from an activity in another country;

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

“waste” means

- (a) any material, solid, liquid or gas, or any combination of them, whether hazardous, non-hazardous, toxic or non-toxic that is without purpose, use or value to the holder that is likely to cause pollution; and
- (b) prescribed by regulation to be waste.

4 **Objects of the Act**

The objects of the Act are:

- (a) to provide for and establish integrated systems of development control, environmental impact assessment and pollution control;
- (b) to prevent, control and monitor pollution, including by implementing the precautionary and polluter pays principle;
- (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, freshwater, sea 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;
 - (iv) regulating the movement and use of certain chemicals;
 - (v) prohibition of materials that lack proper and environmentally friendly treatment options
- (d) to comply with and give effect to regional and international conventions and obligations relating to the environment to which Solomon Islands is party.
- (e) To utilise, protect, and manage in a sustainable manner Solomon Islands environment.

5 Effects of this Act on other Acts

- (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, 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.

6 Application of this Act

The application of this Act extends to:

- (a) the outermost limits of Solomon Islands' exclusive economic zone; and
- (b) the seabed to the outermost limits of Solomon Islands continental shelf;

7 Act binds the Crown

This Act binds the Crown.

Part 2 Administration

Division 1 Establishment of the Environment and Conservation Division

8 Establishment of Division and appointment of Director and other officers.

- (1) There shall be established for the purposes of this Act, an Environment and Conservation Division which shall consist of -:
 - a. A Director;
 - b. Environment Inspectors; and
 - c. Such other officers as may be necessary for the due administration of the Act.
- (2) Any appointment made under subsection (1) must if the person appointed is to be a public officer, be made in accordance with the Constitution but otherwise must be made by the Minister.
- (3) Each public officer appointed to the Division, including the Director, is taken to be an Environment Inspector.
- (4) The Minister may in consultation with the Permanent Secretary and Director appoint a person other than a public officer to exercise all or specified powers of an environmental Inspector for a specified period.
- (5) A person appointed under subsection (4) is taken to be an Environmental Inspector for this Act, but only;
 - a. To the extent of the powers the Minister specifies in the instrument of appointment; and
 - b. For the period specified in the instrument of appointment.
- (6) Any appointment made under subsection (4) may be remunerated at a rate to be determined by the Permanent Secretary.

9

Functions of the Division

(1) The functions of the Division are 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 policies and 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 and stakeholders in environmental decision-making and enforcement;

(g) ensure freedom and access of the public and interested persons to information on environmental matters;

(h) set compulsory standards for environmental maintenance and improvement;

(i) conduct public education and awareness programmes about the environment;

(j) promote the study of the environment through research, surveys, listing and classification;

(k) any functions specified in any other Act administered by the Environment and Conservation Division.

(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 principles and goals:

(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 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;

(d) improved valuation and pricing of environmental resources and ecosystem services;

(e) the ecosystem based principles, that major ecological services and natural resources should be conserved while meeting the socio-economic and cultural needs of current and future generations and to address climate change and disaster risks;

(f) the free prior informed consent principle, that the participation and consultation of the indigenous population should be established before using resources in its areas;

(g) the polluter pays principle, that those who produce pollution should bear the costs of managing it;

(h) the extended importer or producer responsibility principle, that an importer's or producer's responsibility for a product and its impact extends to the postconsumer stage of the product's life cycle.

10 Functions and Powers of the Director

For the purpose of performing his or her 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 in consultation with the Permanent Secretary;

(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, government agencies and other relevant stakeholders in environmental management

(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, waste management 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 Divisions 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 necessary to properly discharge the functions and generally for carrying out the objects of this Act.

11 Environment Report

(1) Every 5 years the Director must submit a report on the state of the environment to the Minister, who must cause the report to be laid before the National Parliament.

(2) The report may 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 Divisions functions and responsibilities.

12 Performance targets for public authorities

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.

13 Power to give directions to relevant public authorities

The Director may in consultation with the Minister and Permanent Secretary, where the Director 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, detracts from the achievement of the objects of the Act;

(b) to refrain from doing any act which, in the opinion of the Director, detracts from the achievements of the objects of the Act.

14 Minister's power to issue general directions to the Director

The Minister may after consultation with the Permanent Secretary and 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 must give effect to any directions.

Division 2 Establishment, functions and powers of the Environment Board

15 Establishment of Environment Board

The Environment Board is established.

16 Functions and Powers

The functions and powers of the Board are as follows:

(a) to decide applications for development consent and transfer of development consent;

(b) to advise the Minister and the Director on policy matters related to environmental management and the implementation of this Act;

(c) other functions conferred under this Act.

17 Membership and Procedures

The membership and procedures of the Board are specified in the First Schedule.

Part 3 Development Control and Monitoring

Division 1 Preliminary matters

18 Prescribed Development

(1) A “prescribed development” is a development:

(a) carried out for the purpose of an industry or activity specified in the Second Schedule; or

(b) otherwise specified in the Second Schedule.

(2) A prescribed development can only commence when a development consent has been issued to the applicants of the prescribed development.

19 Offences relating to development Consent

(1) A person commits an offence if the person:

(a) carries out a prescribed development without a development consent; or

(b) fails to comply with the conditions of the development consent.

(c) Maximum penalty of 4,000,000 penalty units or 24 months’ imprisonment or both. A continuing penalty of 5000 penalty units each day the offence continues.

(2) Subsection (1) does not apply to a person who is exempt under section 20(2)(c) from the requirement to make a development application.

(3) A person who is exempt under section 20(2)(c) from the requirement to make a development application commits an offence if the person carries out the prescribed development otherwise than in accordance with the conditions of the exemption.

(a) Maximum penalty: 4,000,000 penalty units or 24 months' imprisonment or both. A continuing penalty of 5000 penalty units each day the offence continues.

Division 2 Proposal Application

20 Requirement for proposal application

(1) A person who intends to carry out a prescribed development must make a proposal application to the Director.

(2) Where the developer is a foreign investor a certified copy of the investment boards certificate of approval shall be attached

(3) The proposal application must be:

(a) in the approved form; and

(b) accompanied by the prescribed fee and any additional documents prescribed by regulation

(4) The purpose of a proposal application is to enable the Director to decide:

(a) whether a development application for the prescribed development is required; and

(b) if a development application for a prescribed development is required, the documents that must accompany the development application.

(c) whether the development application can be exempted;

21 Decision on Proposal application

(1) The Director makes the decision on a proposal application.

(2) The Director must give the applicant written notice about the decision in 5 working days after the decision is made.

(3) if an application for a prescribed development is required the Director must prescribe a TOR for a PER or EIS that must accompany the application.

22 Assessment Panel

(1) If a development application is required the Director must establish an Assessment Panel to consider a PER or an EIS.

(2) The Assessment Panel:

(a) may request the documents that must accompany the development application and further information from the applicant before making its recommendation to the Environment Board; and

(b) must make its recommendation within 30 working days after receiving all the information it requires to consider the development application.

(3) In making its recommendation, the Assessment Panel must consider:

(a) the impact the development is likely to have on the environment; and

(b) any other matters prescribed by regulation.

(4) The Assessment Panel will consist of;

(a) not less than 3 senior officers from the Environment and Conservation Division

(b) not more than 3 experts from appropriate fields appointed by the Director

(c) other officials from relevant government agencies that the Director considers necessary

(5) The Panel members are entitled to sitting allowances as may be determined by the Permanent Secretary

(6) Environment and Conservation Division will be secretariat to the Assessment Panel

23 Certified Environment Impact Assessment Practitioner

(1) An environment impact statement or public environment report must be prepared by a certified Environment Impact Assessment practitioner.

(2) A certified environment impact assessment practitioner must be approved by the Director and have or possess the following:

- (a) a practitioner's certificate prescribed by regulations;
- (b) at least six years' experience in environment impact assessment;
- (c) relevant qualifications
- (d) have a business license and certificates from relevant authorities;
- (e) possess the relevant skills to analyse and interpret environmental data;
- (f) possess the necessary skills to communicate and present environmental information in a manner appropriate for PER or EIS.
- (g) the certification is valid for 2 years and can be renewed
- (h) a certified environment impact assessment practitioner must pay a fee prescribed in the regulations
- (i) the certification can be revoked or suspended in events where the practitioner brings disrepute to the profession.

24 Contents of public environmental report

A public environmental report must:

- (a) describe the proposed development, including its objectives, any alternative ways of achieving those objectives and the reasons the proposed development is the preferred way of achieving those objectives; and
- (b) describe the likely direct and indirect impact of the proposed development on the environment, including its impact on climate change and vulnerability to natural disasters; and

(c) describe the environment likely to be affected by the proposed development; and

(d) describe any measures proposed to prevent or reduce the impact of the proposed development on the environment, including a detailed rehabilitation plan that specifies the cost of rehabilitation measures; and

(e) identify any impact on the environment that cannot be prevented or reduced; and

(f) specify any investigations or studies in relation to the impact of the proposed development on the environment that have been conducted or will be conducted in the future; and

(g) summarise any consultations in relation to the impact of the proposed development on the environment that have taken place with the relevant provincial government, affected communities and other stakeholders; and

(h) describe the proposed methods of monitoring and reporting on the impact of the development on the environment, including the estimated costs of monitoring and reporting; and

(i) include any other matter prescribed by the regulations or specified by the Director in the notice given under section 21.

25 Contents of environmental impact statement

An environmental impact statement must:

(a) describe the proposed development, including its objectives, and the reasons the proposed development is the preferred method of achieving those objectives; and

(b) describe any alternative ways of achieving those objectives; and

(c) analyse the need for the proposed development and the consequences of not carrying it out; and

(d) include sufficient technical information and data, including baseline studies, to facilitate an accurate assessment of the impact of the proposed development on the environment; and

(e) describe the environment that is likely to be affected by the proposed development and any alternatives to it (including the geographic boundaries of the affected area) identifying any area that is protected under written law; and

(f) identify and analyse the likely direct and indirect impact of the proposed development and any development and any alternatives to it on the environment, including:

(i) the impact on climate change and vulnerability to natural disasters; and

(ii) the timeframes within which the impact is expected to occur; and

(g) specify the methods used to predict and assess the impacts mentioned in paragraph (e); and

(h) assess the proposed development in terms of environmental, economic, health, cultural and social considerations;

(i) describe any measures proposed to prevent or reduce the impact of the proposed development on the environment, including a detailed rehabilitation plan that specifies the cost of rehabilitation measures and an assessment of the likely success of the proposed measures; and

(j) identify any impact on the environment that cannot be prevented or reduced; and

(k) describe the impact on the environment of any similar developments; and

(l) specify any investigations or studies in relation to the impact of the proposed development on the environment that have been conducted or will be conducted in the future; and

(m) include a site survey report to determine any impact of the proposed development on items or places of heritage value; and

(n) summarise any consultations in relation to the impact of the proposed development on the environment that have taken place with the relevant provincial government, affected communities and other stakeholders; and

(o) describe the proposed methods of monitoring and reporting on the impact of the development on the environment, including the estimated costs of monitoring and reporting; and

(p) include any other matter prescribed by the regulations or specified by the Director in the notice given under section 21.

(q) that a PER or EIS must contain an Environment Management Plan

Division 3. Making a development application

(1) A person who proposes to carry out a prescribed development must, having made a proposal application, make a development application.

(2) The application must be:

(a) made in the prescribed form to the Assessment Panel; and

(b) accompanied by the prescribed fee and the documents specified by the Director in the decision on the proposal application.

(3) Subsection 1 does not apply to a person who is exempt under section 20(4)(c) from the requirement to make a development application.

26 Publication of development application

(1) If the Assessment Panel is satisfied that a development application and the accompanying documents meet the requirements of this Act, the Assessment Panel must publish written notice of the application together with the public environmental report or environmental impact statement.

(2) The notice must:

(a) be published in the way the Assessment Panel and Director considers appropriate to ensure the application is brought to the attention of any person whose interest may be affected by the development, including any relevant public authority; and

(b) must specify the timeframe and procedure for making a submission in relation to the development application under section 26.

27 Submission in relation to development application

A person or public authority whose interests may be affected by a proposed development may make a written submission to the Director in relation to the development application within 90 working days after notice of the development application is published under section 26.

28 Consideration of development application by Assessment Panel

(1) The Assessment Panel established for the consideration of development application must consider any subsequent development application.

(2) In considering the development application, the Assessment Panel must consider:

(a) the application and all the documents accompanying it; and

(b) any submissions received under section 26; and

(c) the objects of this Act and the principles mentioned in section 4.

(3) The Assessment Panel may only recommend that development consent be issued if the criteria for granting development consent prescribed by the regulations are met.

(4) The Assessment Panel:

(a) may request an opinion from a person with expertise in an area relevant to the application; and

(b) require the applicant to pay the costs of seeking the opinion.

(5) The Assessment Panel:

(a) may request further information from the applicant before making its recommendation; and

(b) must make its recommendation within 15 working days after

receiving and considering all the information it requires on the application.

(6) The Assessment Panel must make a written recommendation to the Board as to:

- (a) whether development consent should be issued; and
- (b) if the Panel recommends that development consent should be issued, any conditions that should be imposed on the consent.

29 Decision by Board

(1) The Board must decide whether to issue the development consent.

(2) In deciding the application, the Board must consider the recommendation of the Assessment Panel.

(3) The Board must give the applicant written notice within 14 working days of its decision and the decision of the Board is final.

(4) Any person aggrieved with the decision of the board in relation to Part 6 on Reviewable Decisions may seek redress through the court.

(5) The Board is required to file a report to the Minister and Director within 14 working days after taking the decision.

30 Conditions of development consent

A development consent is subject to the following conditions:

- (a) the conditions prescribed by regulation; and
- (b) any additional conditions specified by the Board.

Division 4 Monitoring and Enforcement

31 Monitoring environmental aspects of development

(1) The Director must ensure that the environment aspects of a prescribed development are monitored during the development and after its completion.

(2) The monitoring of a prescribed development must include

monitoring of 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.

(3) The Director may give written directions to the developer to ensure that appropriate safeguards and steps are taken by the developer to mitigate any adverse environmental aspects.

(4) The written directions may include a stop work notice pursuant to section 33.

(5) The developer must comply with the directions of the Director or the relevant public body issued pursuant to this section.

(6) Penalties for noncompliance to directions of the Director is a maximum fine of 1,000,000 penalty units or cancellation of development consent by the Environment Board or both.

32 Right to request evidence of development consent

An Inspector may require a person in charge of carrying out a prescribed development to produce evidence of the development consent.

33 Stop work notice

(1) An Inspector may issue a notice (a “stop work notice”) to a person the Inspector reasonably believes is carrying out a prescribed development without a Development Consent in contravention of this Act.

(2) The notice must:

(a) be in the approved form; and

(b) specify;

(i) the steps the person must take in order to comply with the notice; and

(ii) the time (maximum 14 working days) within which the person must comply with the notice; and

- (iii) the penalty for failing to comply with the notice; and
 - (iv) the procedure for the person to apply for review of the notice under Part 6.
- (3) Despite subsection (2) the notice takes effect immediately after its service on the developer as the case may be.
- (4) A person who fails to comply with a stop work notice commits an offence with a penalty maximum fine of 4,000,000 penalty units or prison term of 10 years or both

34 Variation, suspension and revocation of development consent

- (1) The Board may vary, suspend or revoke a development consent if the Board is satisfied that:
- (a) the developer has failed to comply with the conditions of the consent including Environment Management Plan; or
 - (b) the developer has failed to comply with a stop work notice; or
 - (c) the developer has otherwise failed to comply with this Act; or
 - (d) the actual or likely environment impact of the development has significantly changed since the consent was issued; or
 - (e) an approval granted by relevant public body has been cancelled or revoked
- (2) Before varying, suspending or revoking the development consent (the “proposed action”), the Board must give the developer a written notice specifying:
- (a) the proposed action and the reasons for it; and
 - (b) that the developer may make written submissions to the Board in response to the notice within 7 working days after the date of the notice.
- (3) After considering any submissions made under subsection (2), the Board may decide to:
- (a) take the proposed action; or

(b) not take any action.

(4) The Board must give the developer written notice of the decision, including the procedure for the developer to apply for review of the decision under section 64.

Division 5 Miscellaneous matters

35 Transfer of development consent

(1) A person who proposes to assume responsibility for a prescribed development for which development consent has been issued may apply for transfer of the development consent to that person.

(2) The application must be:

(a) made in prescribed form to the Director; and

(b) accompanied by the prescribed fee, prescribed documents and any additional requirements as notified by the Director.

(3) The Director must not transfer the development consent unless satisfied that the proposed new holder of the consent will carry out the prescribed development in accordance with the requirements of the consent.

36 Director to keep records

(1) The Director must keep proper records of all proposal applications, development applications, environmental impact statements, public environmental reports and development consents.

(2) The Director shall make the records referred to in subsection (1) available for perusal to the public during normal working hours.

(3) The Director in consultation with the Minister shall make available to the public certain information held in records.

Director to issue guidelines for assessment of reports and statements

(4) 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.

Part 4 CONTROL OF POLLUTION AND WASTE

37 Waste Management Procedures

(a) waste must be stored, recovered, treated and disposed of in a way that does not cause environmental harm;

(b) waste must be managed in accordance with the following hierarchy of priorities:

(i) prevention or reduction of the production of waste;

(ii) re-use of waste;

(iii) recycling of waste;

(iv) recovery of waste;

(v) treatment of waste;

(vi) return of waste;

(vii) disposal of waste.

38 Declaration of classes of hazardous waste

The Minister may by Order in the gazette:

(a) declare any class or type of material, solid, liquid or gas, or any combination of them to be a hazardous waste;

(b) prohibit the importation, exportation, manufacture, use, sale, storage or transportation of certain material, solid, liquid or gas, or any combination of them which may become waste;

(c) impose obligations on persons importing, exporting, using or manufacturing certain material, solid, liquid or gas, or any combination of them which may become waste in relation to their eventual disposal.

39 Regulation according to International Law

(1) The import, export and transboundary movement of waste shall be regulated according to relevant MEAs that the Solomon Islands has ratified including the Waigani Convention (Convention to Ban the Importation into Forum Island Countries and Radioactive Wastes and to Control the Transboundary Movement and Management of Hazardous Waste within the South Pacific Region).

(2) Any person who contravenes the provisions of subsection (1) is guilty of an offence and is liable on conviction to a fine not exceeding 1000 000 penalty units or to imprisonment for a period not exceeding 5 years or to both such fine and imprisonment

40 Causing Pollution

(1) 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.

(2) A person commits an offence if the person causes pollution

(3) Any person who contravenes the provisions of subsection (1) and (2) is guilty of an offence and is liable on conviction to a fine not exceeding 1000 000 penalty units or to imprisonment for a period not exceeding 7 years or to both such fine and imprisonment

41 Discharge of waste

(1) A person must not cause or allow waste to be disposed, burnt or 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.

(2) All forms of hazardous and industrial waste discharge must be done in accordance with the methods set out in the regulations

(3) Any person who contravenes the provisions of subsection (1) and (2) is guilty of an offence and is liable on conviction to a fine not exceeding 1000 000 penalty units or to imprisonment for a period not exceeding 7 years or to both such fine and imprisonment

42 Occupiers of Premises to take certain measures

(1) The occupier of any premises must:

(a) comply with any prescribed standard for the discharge of waste or emission of pollutants from such premises; and

(b) take all reasonable and practicable measures to prevent or minimise the discharge of waste and the emission of pollutants from such premises.

(2) Any occupier of a prescribed premises who contravenes the provisions of subsection 1 (a) and (b) is guilty of an offence and is liable on conviction to a fine not exceeding 1 000 000 penalty units or to imprisonment for a period not exceeding 7 years or to both such fine and imprisonment

43 Application for licence

(1) An application for a licence to store or discharge waste, or emit a pollutant from a prescribed premises must 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 prescribed by the Director.

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

(3) If the application complies with subsection (2), the Director must seek comments on it from relevant public body or person who in the opinion of the Director, has a direct interest in the subject matter of the application.

(4) The Director must on receipt of comments from the public body or the person mentioned in subsection (3), take into account any

comments received and may either:

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

(ii) refuse to grant the licence.

(6) In deciding a licence application, the Director must consider the objects of this Act and the principles mentioned in sections 8(2) and 37.

44 Offence in relation to Licence to store, emit and discharge waste or pollutants

(1) A person who is a licence holder commits an offence if the licence holder:

(a) causes or increases, or permits to be caused or increased, the storage or discharge of waste or the emission of a pollutant from the prescribed premises; or

(b) alters or permits to be altered the nature of the waste stored or discharged or pollutants emitted from the prescribed premises,

(2) Any occupier of a prescribed premises who contravenes the provisions of subsection (1) is guilty of an offence and is liable on conviction to a fine not exceeding 100 000 penalty units or to imprisonment for a period not exceeding 10 months or to both such fine and imprisonment.

45 Revocation, suspension or amendment of licences by Director

(1) The Director may, by notice in writing served on the licensee revoke or suspend a licence, if the Director is satisfied that there has been a breach of any of the conditions of the licence issued pursuant to section 43.

(2) The Director may amend the licence conditions, as deemed appropriate, only on application by the licensee, in the manner prescribed by regulations.

(3) At least once a year, the Director must review:

(a) the licensee's compliance with the licence; and

(b) the impact on the environment of the activity conducted under the licence.

(c) the licensee's annual report as maybe specified in the licence.

46 Transfer of Licence

(1) A licence for a prescribed premises may be transferred on application to the Director by the licensee and the proposed new occupier of the prescribed premises.

(2) The application must:

(a) be accompanied by the prescribed fee; and

(b) include any information required by the Director or prescribed.

(3) 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, the Director may transfer the licence to the new occupier with or without further conditions or otherwise refuse such transfer.

47 Conditions of Licence

A licence issued under section 43 may be subject to the following conditions:

(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 pollutant that is being or is to be emitted from those premises into the environment;

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

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

(g) the licensee complies with any other condition the Director prescribes.

(2) The person occupying the premises must 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.

(3) Any person who contravenes the provisions of subsection 2 is guilty of an offence and is liable on conviction to a fine not exceeding 100,000 penalty units or to imprisonment for a period not exceeding 3 years or to both such fine and imprisonment

48 Pollution abatement notice

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 pollutant is being, or is likely to be, emitted from the premises into the environment;

(c) that waste matter or pollutant 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 radiation pollutant has caused or is causing or is likely to cause pollution.

(2) A pollution abatement notice:

(a) must set out the reason for the notice; and

(b) may require any person affected by it to take any measures the Director considers necessary to prevent, control or reduce the discharge of waste or emission of the pollutant to which the notice relates in the manner specified in the notice.

(3) If a pollution abatement notice is in force it applies to each person who is the owner or the 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 an extension; or

(b) by revoking or amending any requirement in the notice.

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

(7) Before extending or amending a notice, the Director must 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 1,000,000 penalty unit or to imprisonment for a period not exceeding six years or to both such fine and imprisonment.

49 **Outgoing owner or occupier to notify the Director and succession in ownership or occupation**

When a person who is the owner or occupier of premises to which a pollution abatement notice applies, ceases to be the owner or occupier, that person must in writing notify:

(a) the Director of that fact, and of the name and address of any

person who succeeds that person as owner or occupier of the premises (the successor); and

(b) the successor that the pollution abatement notice is binding on .

50 Environment Inspector may serve stop notice

(1) An Inspector may, in consultation with the Director, serve a stop notice on a person if the Inspector is satisfied that:

(a) the 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, any steps as the Inspector 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 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 Crown 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 the order by notice served on the person.

(5) An inspector who serves a stop notice referred to in subsection (1), must 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 is guilty of an offence and is liable on conviction to a fine not exceeding 1 000,000 penalty units or to imprisonment for a period not exceeding 5 years or to both such fine and imprisonment.

(7) A stop notice is binding on each successive occupier of the premises to which it applies.

51 Change in occupier of premises

(1) This section applies if:

(a) a pollution abatement notice or a stop notice is in force in relation to premises; and

(b) the occupier of the premises stops occupying the premises.

(2) The occupier of the premises must within 5 days after vacating the premises give the Director written notice of:

(a) the vacation of the premises by the person; and

(b) if, at the time of vacation, another person intends to occupy the premises, the name and contact details of the new occupier.

(3) The occupier of the premises must provide written notice to the Director of the intention to vacate the premises within 7 days before vacating.

(4) Any person who fails to comply with section 51 is guilty of an offence and is liable on conviction to a fine not exceeding 100,000 penalty units or to imprisonment for a period not exceeding 3 years or to both such fine and imprisonment.

52 Records of licences, pollution abatement notices and stop notices

(1) The Director must record details of the following:

(a) licences (including applications for renewals or transfers);

(b) pollution abatement notices; and

(c) stop notices.

(2) The Director in consultation with the Minister shall make available to the public certain information held in records.

53 Powers concerning storage or discharges of waste and creation of pollution

(1) This section applies if any waste or pollutant has been or is being, stored or discharged or emitted, or is likely to be stored or discharged or emitted from any premises in breach of a licence, a stop notice or pollution abatement notice.

(2) Any inspector may in writing advise any person, or assist that person.

(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;

(3) Any expenses incurred by the Division by providing assistance under subsection (1) shall be recovered from the person who:

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

(ii) caused, or permitted to be caused, the storage or discharge or was responsible for the storage or 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.

54 Defences to certain proceedings

(1) It is a defence to legal proceedings for an offence under this Part if the person charged with the offence proves that:

(a) the storage, discharge, or emission occurred and reported to the Director within reasonable period;

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

(c) the storage, discharge, or emission complies with any prescribed standard, licence or requirement in a pollution abatement notice.

55 Discharges from vehicles, vessels and aircraft

(1) A person commits an offence if:

(a) the person:

- (i) drives a vehicle on a road, public place or reserve and the vehicle is capable of discharging or emitting a pollutant into the environment; or
- (ii) operates a vessel capable of discharging or emitting a pollutant into the environment; or
- (iii) operates an aircraft capable of discharging or emitting a pollutant into the environment; and

(b) the vehicle, vessel or aircraft does not comply with the prescribed discharge and emission standards.

(2) Any person who fails to comply with this section is guilty of an offence and is liable on conviction to a fine not exceeding 100,000 penalty units or to imprisonment for a period not exceeding 3 years or to both such fine and imprisonment.

56 Interference with anti-pollution devices on vehicles, vessels, or aircraft

(1) A person must not remove, disconnect or impair, a device fitted to a vehicle, aircraft or vessel for the purpose of preventing the discharge or emission of waste or a pollutant.

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

(3) Any person who contravenes any provisions of this section or any prescribed standard is guilty of an offence and liable on conviction to a fine not exceeding 100 000 penalty units or to imprisonment for a period not exceeding 3 years or to both such fine and imprisonment.

57 Installation of equipment emitting unreasonable noise

(1) A person must not install on, or in, any premises and 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 is guilty of an offence and is liable on conviction to a fine not exceeding 100 000 penalty units or to imprisonment for a period not exceeding 3 years or to both such fine and imprisonment.

58 Regulations relating to waste and pollution

(1) The Minister may make regulations:

(a) for the management of waste and pollution; and

(b) for prohibiting the production importation and use of items that significantly contribute to the production of waste and result in environment harm; and

(c) for prohibiting the import and export of waste to and from Solomon Islands.

Part 5 Management of Chemicals

59 Dangerous substances and Persistent Organic Pollutants

(1) Any chemicals deemed as dangerous substance that is imported, exported, stored, produced, sold, used and or disposed which may cause environmental harm must be managed according to standards prescribed by regulations.

(2) Any person who contravenes the provisions of subsection (1) is guilty of an offence and is liable on conviction to a fine not exceeding 1000 000 penalty units or to imprisonment for a period not exceeding 6 years or to both such fine and imprisonment

60 Definitions

In this Part;

“**dangerous substance**” means a substance or preparation that is any of the following:

- (a) oxidising;
- (b) flammable;
- (c) toxic;
- (d) persistent;
- (e) harmful to human health;
- (f) corrosive;
- (g) an irritant;

“**persistent organic pollutant**” means a hazardous organic chemical compound that is resistant to biodegradation; and as defined by the Stockholm Convention

“**preparation**” means a mixture or solution of 2 or more substances;

“**substance**” means a chemical element or compound

61 Regulations relating to dangerous substances

The Minister may make regulations;

- (a) regulating or prohibiting the import or export of dangerous substances that are not regulated.

62 Regulations relating to persistent organic pollutants

The Minister may make regulations:

- (a) regulating or prohibiting the import, export, production, sale and use of persistent organic pollutants; and
- (b) regulating the disposal of persistent organic pollutants.

Part 6 Review of Decisions

63 Reviewable Decisions

(1) A decision specified in the table below, column 1, is a “reviewable decision”.

(2) A person specified in the table below, column 2 is entitled to apply to the Board for review of a decision specified opposite in column 1.

Column 1	Column 2
<i>Reviewable Decision</i>	<i>Person(Developer)</i>
Refuse to issue development consent	Applicant for development consent
Impose one or more conditions on development consent	Applicant for development consent
Vary development consent	Holder of development consent
Refuse to transfer development consent	Applicant for transfer

64 Application for review

(1) An application for review must be:

(a) made in the approved form; and

(b) accompanied by the prescribed fee.

(2) The application must be made within 7 working days after the applicant receives notice of the reviewable decision.

65 Application does not affect operation of reviewable decisions

The making of an application for review as specified in section does not affect the operation of the reviewable decision.

66 Review by Board

(1) The Board must review the reviewable decision within 15 working days after the day the application for review is made.

(2) The board must take into consideration decisions made by other public authorities in relation to the reviewable decision.

(3) The Board must review the decision on its merits and;

(a) confirm the decision; or

(b) vary the decision; or

(c) set aside the decision and substitute another decision.

Part 7 General Enforcement and Offence Provisions

Division 1 Enforcement Provisions

67 Power of entry

(1) An Inspector may enter any premises, aircrafts and vessels or development site for the purpose of;

(a) making an assessment required for the administration of this Act; or

(b) if the inspector reasonably believes that it is necessary to enter the place urgently.

(2) The inspector may require the person in charge of the place to take reasonable steps to facilitate entry to the place.

(3) For the purpose of this section all customs and police officers

shall be deemed to be inspectors for the purpose of carrying out the duties imposed under this Act.

68 Powers of Investigation

An inspector who enters premises or development site under section 67 may do any of the following:

- (a) search the premises or development site;
- (b) inspect anything found at the premises or development site;
- (c) open any container, receptacle or package found at the premises or development site;
- (d) require a person who is at the premises or development site to state the person's name and address;
- (e) examine, mark, fasten, secure or take and remove samples of anything at the premises or development site;
- (f) weigh, count, measure, gauge or test anything at the premises or development site;
- (g) take readings from any equipment at the premises or development site;
- (h) require a person at the premises or development site to produce any document or record;
- (i) require a person at the premises or development site to answer questions or give any other assistance the officer requires to carry out an inspection;
- (j) examine, copy or take extracts from a document produced or require a person to provide a copy of the document;
- (k) take photographs or audio, video or other recordings;
- (l) makes sketches or drawings or any other recording in any other way;
- (m) seize and remove anything found at the premises or development site.

69 Powers of Arrest

(1) An inspector may, where he has reasonable grounds to believe that an offence has been committed or is being committed against any provisions of this Act and that the person committing the offence is likely to leave Solomon Islands, without warrant, arrest such person and if the inspector making the arrest is not a police officer, he shall without unnecessary delay hand over such person to a police officer

Division 2 General Offences

70 False representation as an Inspector

A person commits an offence if the person;

(a) represents, by words or conduct, that the person or another person is an Inspector; and

(b) knows the presentation is false.

(c) carries out or undertake to carry out the functions of inspectors contrary to section 8 (2) and (4)

(d) Any person who contravenes the provisions of this section is guilty of an offence and is liable on conviction to a fine not exceeding 10, 000 penalty units or to imprisonment for a period not exceeding 6 months or to both such fine and imprisonment

71 Obstruction of Inspector

(1) A person commits an offence if the person obstructs an inspector, while the inspector is acting in his official capacity.

(2) Any person who contravenes the provisions of this section is guilty of an offence and is liable on conviction to a fine not exceeding 10, 000 penalty units or to imprisonment for a period not exceeding 6 months or to both such fine and imprisonment

72 False or misleading information

(1) A person commits an offence if:

(a) the person gives false or misleading information under this Act; and

(b) the person knows, or is reckless as to whether, the information is false or misleading.

(2) Any person who contravenes the provisions of this section is guilty of an offence and is liable on conviction to a fine not exceeding 10, 000 penalty units or to imprisonment for a period not exceeding 6 months or to both such fine and imprisonment

(2) It is a defence to a prosecution for an offence against subsection (1) for giving false or misleading information in a document that the person:

(a) drew the misleading aspect of the document to the attention of the recipient of the document; and

(b) to the extent to which the person could reasonably do so, gave the recipient the information necessary to correct the document.

(3) In this section:

“*misleading information*” means information that is misleading in a material particular or because of the omission of a material particular

Part 8 MISCELLANEOUS

73 Protection from Liability

A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as any of the following:

(a) the Director;

(b) an Inspector;

(c) a member of the Environment Board;

(d) a member of an Assessment Panel.

74 Approved forms

The Director may approve forms for use under this Act.

75 Delegation

The Director may delegate any of his or her powers or functions under this or any other written (except this power of delegation) to an officer of the Division.

76 Offences by corporation

If 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.

77 General penalty

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 Magistrates Court to a fine not exceeding 1000 penalty units or, in default of payment, to imprisonment not exceeding one year.

78 Environment Levy

- (1) A levy shall be imposed on certain goods and services which are likely to contribute to environment harm
- (2) The goods and services are as specified in the fourth schedule
- (3) In this section: Environment Levy means payment that is charged on goods and services

79 Environment Bond

- (1) There shall be established an environmental bond the details of which shall be as specified in the regulations.

80 Regulations

- (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 for the following matters:

- (a) prescribing the application forms to be used;
- (b) prescribing the manner whereby a person may make applications;
- (c) requiring information to be furnished by an owner, occupier, developer or any other person;
- (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;
- (k) prescribing technical standards for the purpose of environmental management, and prescribing penalties for failure to comply with those standards;
- (l) prescribing anything which is required or permitted to be prescribed by regulations made under this Act.
- (m) regulate the importation, exportation, manufacture, use, sale, storage or transportation of certain material, solid, liquid or gas, or any combination of them which may become waste to ensure their appropriate disposal by recycling; and
- (n) prescribing the form or contents of a proposal application

(2) A regulation made under this Act may incorporate another document by reference.

FIRST SCHEDULE

ENVIRONMENT BOARD

(1) Membership of the Board

The Board consists of 10 members including:

Permanent Members

- a. Permanent Secretary responsible for Environment or a suitable nominee
- b. Permanent Secretary responsible for Provincial Government or a suitable nominee
- c. Permanent Secretary responsible for Health or a suitable nominee
- d. Permanent Secretary responsible for Ministry of Infrastructure Development or a suitable nominee

Appointed Members

- a. Representative from the Private Sector
- b. Representative from NGOs
- c. Representative from Women Organisation
- d. Two Representatives from the Scientific Community
- e. Director Culture Division
- f. Director Water Resources

Co-opted Members

By invitation of the chairperson .

- a. Provincial Secretary or City Clerk of host province or town or nominee

Ex officio member

- a) Chairperson of Assessment Panel or nominee
- b) Environment and Conservation Division officer responsible for the board

(2) Duration of appointment

- a) An appointed member holds office for the period, not exceeding 2 years, stated in the instrument of appointment and may be reappointed for a further 1 year

(3) Chairperson and Deputy Chairperson

- a) Voting members of the board must elect a chairperson and deputy chairperson from among the appointed members.
- b) The chairperson and deputy chairperson hold office as chairperson and deputy chairperson until the expiration of the period of their respective appointments or until they cease to be members, whichever first occurs.

(4) An appointed member ceases to hold office:

- 1) If the member resigns by giving written notice of resignation to the Minister; or
 - a) the members' term of office comes to an end and the member is not re-appointed; or
 - b) the member is convicted of an offence; or
 - c) the member is absent, except on leave granted by the Board from 3 consecutive meetings of the Board; or
 - d) the member is removed from office under subsection (2)
- 2) The Minister may remove an appointed member from office for:
 - (a) mental or physical incapacity to carry out official duties satisfactorily; or
 - (b) neglect of duty; or
 - (c) breach of a condition of appointment, or

(d) dishonest or dishonourable conduct.

5 Remuneration

The members must be paid the remuneration and allowances prescribed by regulation

6. Holding meetings

(1) The Board must meet as often as is necessary for the exercise of its powers and the performance of its functions.

(2) However, the Board must meet 4 times in each year.

(3) The chairperson must call a meeting of the Board if asked to do so by the Minister or at least 3 members.

7. Presiding member at meetings

(1) The chairperson must preside at all meetings of the board at which he is present.

(2).If the chairperson is absent from a meeting, the deputy chairperson must preside;

(3) if the chairperson and deputy chairperson are absent from a meeting, the members present must elect a member to preside

8. Procedures at meetings

(1) A quorum of the Board consists of 5 members.

(2) A question arising for decision at a Board meeting must be resolved according to the opinion of a majority of the members present at the meeting and, if they are equally divided in opinion, the chairperson has a casting vote.

(3) The Board must keep proper minutes of its procedures and decisions.

9. Disclosure of interest in matter being considered

(1) If a member of the Board has a present interest in a matter being considered or about to be considered by the Board, the member must disclose the nature of the interest at a Board meeting as soon as

practicable after the relevant facts come to the member's knowledge.

- (2) The disclosure must be recorded in the Board's minutes.
- (3) The member must not take part in any deliberation or decision of the Board relating to that matter.
- (4) For this sub clause (1), a member has a personal interest in a matter if the person;
 - (a) has a direct or indirect financial interest in the matter; or
 - (b) has a personal, professional commercial or other relationship with a person and the nature of the relationship is likely to, or may reasonably be regarded as likely to, inhibit or prevent the member from exercising independent judgement about the matter.

10. Disclosure of interest generally

- (1) Each member of the Board must give the chairperson a copy of all disclosures made by the member to the Leadership Code Commission under part II of the Leadership Code (Further Provisions) Act 1999.
- (2) The chairperson must keep a register of all disclosures by members under sub clause (1).

11. Appointment of committees and experts

- (1) To advise it in the exercise of its powers and the performance of its functions, the Board may appoint:
 - (a) committees, whose members may include persons who are not members of the Board; and
 - (b) persons with specialised expertise in a particular area of environmental management.

12. Other procedural matters

- (1) Subject to this Schedule, the Board may determine its own procedures.

SECOND SCHEDULE

PRESCRIBED DEVELOPMENTS

1) Food Industries include;

- (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

3) NON FERROUS INDUSTRIES including;

- (a) lime production
- (b) brick and tile manufacture
- (c) extraction of aggregates stones or shingles
- (d) radio-active related industries
- (e) manufacture of cement
- (f) quarrying including extraction of coronas material (limestone)

4) MINING including;

- (a) exploration and mineral extraction
- (b) underground, strip and open pit mining
- (c) sea bed mining
- (d) alluvial mining

5) 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

6) FISHING AND MARINE PRODUCT INDUSTRY

7) LOGGING OPERATION, SAW MILLING AND ALL FORMS OF TIMBER PROCESSING AND TREATMENT

8) CHEMICAL INDUSTRY including;

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

9) TOURISM INDUSTRY including;

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

10) AGRICULTURE INDUSTRY including;

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

11)PUBLIC WORKS SECTOR including;

- (a) landfills
- (b) infrastructure developments (roads, bridges, stadiums, seawalls,)
- (c) major waste disposal plants
- (d) soil erosion and siltation control
- (e) hydro power schemes
- (f) reservoir development
- (g) airport developments
- (h) waste management, drainage and disposal systems
- (i) dredging
- (j) ports and harbours
- (k) Excavation
- (l) Diesel Power Plants
- (m)Solar Farms

12)OTHER

- (a) industrial estates
- (b) housing development schemes
- (c) resettlement schemes
- (d) petroleum exploration and development, product storage, processing works and fuel service stations
- (e) telecommunications installation including towers and undersea cables
- (f) any development that may impact endangered species or habitats
- (g) any development that may impact a sensitive ecosystem such as

a beach, forest or marine environment

(h) any development that may impact a site of archaeological, historical or cultural significance

(i) any development involving riverbank, unstable landforms, wetlands and foreshore land reclamation

(j) Any building construction involving four (4) storeys and above

DRAFT

THIRD SCHEDULE

ASSESSMENT PANELS (section 18)

1. Membership of Assessment Panel

(1) An Assessment Panel consists of:

(a) the Director, as chairperson of the Panel; and

(b) members appointed by the Director, which;

(i) may include members appointed from within or outside the Division, including members who are not public officers; but

(ii) must not include a person who is a member of the Environment Board

(2) The Director must ensure the Assessment Panel consists of members with the expertise required to assess the application the Panel was established to review.

2. Duration of appointment

A member of an Assessment Panel holds office for the period the Panel exists.

3. Disclosure of Interest

(1) if a member of an Assessment Panel has a personal interest in the application before the Panel:

(a) the member must resign from the Panel; and

(b) the Director may appoint a person in the member's place.

(2) For this subclause (1) a member has a personal interest in a matter if the member;

(a) has a direct or indirect financial interest in the matter; or

(b) has a personal, professional, commercial or other relationship with a person and the nature of the relationship is likely to, or may reasonably be regarded as likely to, inhibit or prevent the member from exercising independent judgement about the matter.

4. Remuneration

The members must be paid the remuneration and allowances prescribed by regulation

5. Other procedural matters

Subject to this Schedule, an Assessment Panel may determine its own procedures.

DRAFT

FOURTH SCHEDULE

Categories of goods and services (section 78)

Category One: Goods

- a. Electronics
- b. Vehicles
- c. Fuel
- d. Chemicals
- e. Plastics
- f. Building materials
- g. Textile
- h. Cardboard and Papers
- i. Others

Category Two: Services

- a. Tourism
- b. Power Generation
- c. Transport
- d. Gas stations
- e. Communication
- f. Industries
- g. Commercial
- h. Others

.....
HON. STANLEY FESTUS SOFU

MINISTER FOR ENVIRONMENT, CONSERVATION AND METEOROLOGY

DRAFT