
Water Authority of Fiji Promulgation 2007

REPUBLIC OF FIJI ISLANDS

**WATER AUTHORITY OF FIJI PROMULGATION 2007
(PROMULGATION NO. 25 OF 2007)**

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WATER AUTHORITY OF FIJI PROMULGATION 2007 (PROMULGATION NO. 25 OF 2007)

IN EXERCISE of the powers conferred upon the Interim Government, and upon the exercise of my own deliberate judgement as President of the Republic of the Fiji Islands as to what is best and good for the people of Fiji, and by the executive authority of the State in accordance with section 85 of the Constitution and such other powers as may appertain, and with the advice of Cabinet, I, Josefa Iloilovatu Uluivuda, make this Promulgation-

TO ESTABLISH THE WATER AUTHORITY OF FIJI AND TO PROVIDE FOR ITS FUNCTIONS AND POWERS FOR THE PURPOSES OF MANAGING WATER AND SEWERAGE SYSTEMS, AND FOR RELATED MATTERS

PART 1— PRELIMINARY

Short title and commencement

1.-(1) This Promulgation may be cited as the Water Authority of Fiji Promulgation 2007.

(2) This Promulgation comes into force on a date or dates appointed by the Minister, by notice in the Gazette.

Interpretation

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

"assets" of the Authority, means any property owned, controlled and managed by the Authority;

"Authority" means the Water Authority of Fiji established by section 5;

"Board" means the Board of the Authority established by section 9;

"customer" means-

(a) the owner or occupier of premises which are connected to the Water System, and to which water or any other service is supplied by the Authority;

(b) the owner or occupier of premises which are connected to the Sewerage System from which sewage or waste water is collected by the Authority;

(c) any person who assumes responsibility to the Authority in relation to a communal water supply or sanitation to a village or rural community; or

(d) any person to whom water or any other service is supplied by the Authority under a customer contract;

"Chief Executive Officer" means the person appointed as such under section 14, and includes the person acting in that office;

"Department" means the Water and Sewerage Department that is subject to reorganization under the Public Enterprise Act 1996;

"officer" includes any staff member of or persons authorized by the Authority exercising the powers of an officer under this Promulgation;

"other services" includes –

(a) sewage disposal, waste water disposal or liquid trade waste disposal; or

(b) construction services or consultancy services relating to any such disposal;

"premises" includes any vacant land or area, aircraft, vehicle or vessel;

"rates" means the rates fixed pursuant to this Promulgation for the supply of water or the provision of sewerage services;

"Sewerage System" means the sewerage system established and maintained by the Authority;

"State assets" has the meaning given to it in the Financial Management Act 2004;

"Water System" means the water system established and maintained by the Authority.

Objectives of this Promulgation

3. The objectives of this Promulgation are -

(a) to give effect to the reorganization of the Water and Sewerage Department under the Public Enterprise Act 1996;

(b) to make provision for the effective management and administration of the Water and the Sewerage Systems;

(c) to provide efficient and reliable services to customers and to ensure that the services are undertaken competently and professionally.

Application of the Public Enterprise Act

4.-(1) The provisions of the Public Enterprise Act 1996 relating the management and operations of commercial statutory authority apply with necessary modifications, and if there is any inconsistency between a provision of this Promulgation and the Public Enterprise Act 1996, the provision of the Public Enterprise Act 1996 prevails.

(2) The Authority is declared a Commercial Statutory Authority for the purposes of the Public Enterprise Act 1996.

PART 2 - ESTABLISHMENT, FUNCTIONS AND POWERS OF THE WATER AUTHORITY OF FIJI AND ITS BOARD

Establishment the Authority

5. This section establishes the Water Authority of Fiji, as a corporate body with perpetual succession and a common seal, and the Authority may-

(a) sue and be sued;

(b) acquire, hold and dispose of property;

(c) enter into contract, agreement or other transactions; or

(d) do all other acts that may be done in law by bodies corporate.

Transfer and acquisition of assets and liabilities

6.-(1) Notwithstanding the provisions of the Land Transfer Act (Cap. 131), and in a manner consistent with the provisions of the Public Enterprise Act 1996, State assets under the control and management of the Water and Sewerage Department set out in a regulation made under section 42 are transferred to and shall vest in the Authority at the commencement of this Promulgation, without further assurance and conveyance, or in accordance with the provision of the Public Enterprise Act 1996, relating to the transfer of assets.

(2) All transfers of land and property made in accordance with subsection (1) shall not be subject to transfer fees, stamp duties or any other tax or charge applying under any law.

(3) The Authority may acquire any land pursuant to the State Acquisition of Lands Act, for the purposes of its Water or Sewerage Systems.

(4) Any Government liability incurred by the Department on or before the commencement of this Promulgation shall remain with and continues to be the liability of the Government, unless the Government and the Authority agree that the liability shall be transferred to and becomes the liability of the Authority in accordance with the provision of the Public Enterprise Act 1996, relating to the transfer of liabilities.

Functions of the Authority

7. The functions of the Authority are -

(a) to harvest, treat and reticulate water for supply to its customers;

(b) to comply with standards in relation to the supply and quality of water in its Water System;

(c) to collect, transport, treat and discharge waste water for the purposes of this Promulgation;

(d) to establish, operate and maintain systems for the provision of water and sewerage services;

(e) to maintain any State assets transferred to and vested in it by the Government pursuant to this Promulgation or any other written law;

(f) to provide technical or expert advice to any other person on matters relating to its functions and powers;

(g) to progressively achieve economic viability in the provision of water supply and sewerage services;

- (h) to be environmentally responsible in the performance of all its activities;
- (i) to assist in protecting, managing and conserving water resources;
- (j) to assist in the formulation and implementation of national policies or urban and rural land use planning, relating to the use and control of water bodies and resources.

Powers of the Authority

8. For the purposes of carrying out its functions and objectives, the Authority has the following powers-

- (a) to acquire, construct, install, maintain and operate plant, equipment, machinery or any other facility or assets, for the supply of water and the provision for sewerage services and other services;
- (b) to acquire the legal right to water sources and the right to obtain or draw water from the water sources for the purposes of its Water System;
- (c) to enter any premises for the purposes of constructing, installing, maintaining, repairing or operating its plant, equipment, machinery or any other facility or asset;
- (d) for the purposes of its Water and Sewerage System, to construct, use or access any road, area, premises, structure, machinery, State asset or other property of other person, for such purposes;
- (e) to use any natural watercourse for the discharge of overflows from its activities under this Promulgation, subject to the requirements under other written laws;
- (f) to acquire easements or other legal right of way or access to any private property or State assets;
- (g) whenever necessary, to control or ration the supply of water;
- (h) to recover the capital cost of supplying water or other services to particular premises on terms and conditions, as the Authority determines;
- (i) to investigate any breach of this Promulgation, or any act that affects the ability of the Authority to provide services under this Promulgation, and to take steps as it considers necessary to secure compliance with this Promulgation or to prevent interference with the activities of the Authority, subject to the general powers of investigation of the police;
- (j) to formulate, monitor, enforce and review policies, procedures, standards, codes of practice and practice directions;

(k) to disconnect or refuse to connect to its assets any work which has been carried out by a customer or any other person, which contravenes this Promulgation or its policy, procedure, standard or code of practice;

(l) to exercise other powers conferred upon it under this Promulgation or any other written law.

Board of the Authority

9.-(1) This section establishes the Board of the Authority consisting of the following members, who are to be appointed by the Minister in consultation with the Minister responsible for Public Enterprises and the Minister for responsible for Finance -

(a) a Chairperson;

(b) 5 other members.

(2) A person is qualified for appointment to the Board if the person is suitably qualified, including qualifications and experience in management, commerce, business, public administration, engineering or law.

(3) The Permanent Secretary of the Ministry responsible for the administration of this Promulgation or his or her nominee shall be an ex officio member of the Board with no voting rights.

(4) A member of the Board may be appointed for a term not exceeding 3 years, and is eligible for re-appointment for such term.

(5) A member of the Board is entitled to remuneration applicable to boards of commercial statutory authorities appointed under the Public Enterprise Act 1996.

Resignation and removal

10.-(1) A member of the Board may resign from his or her office by giving 30 days prior notice to the Minister.

(2) The Minister may remove a member of the Board if the member -

(a) is absent from 3 consecutive meetings of the Board without leave of the Board;

(b) is declared a bankrupt; or

(c) is, for any reason, unable to perform his or her functions under this Promulgation.

Meetings of the Board

11.-(1) The Board shall meet at least once in every 2 months, as the Chairperson may determine or by notice signed by at least 3 members.

(2) The Chairperson shall preside at all meetings of the Board, and if the Chairperson is absent, the members present may elect a member present to preside at that meeting.

(3) The quorum for a meeting of the Board shall be 4 voting members.

(4) A resolution signed or assented to, by way of a letter, facsimile transmission or email message or other means of technology, by each member shall have the same effect as a resolution passed at a meeting of the Board.

(5) Subject to this Promulgation, the Board may regulate other meeting proceedings.

Duties and obligations of the Board

12.-(1) The Board is the governing and executive body of the Authority and has the authority to perform the functions and powers of the Authority under this Promulgation or any other written law.

(2) A member shall act at all times in a manner so as-

(a) to advance the interests of the Authority and its customers;

(b) to comply with the obligations of directors under the Public Enterprise Act 1996;

(c) to implement any Government policy, consistent with the functions of the Authority, given to the Board by the Minister;

(d) not to publicly disclose any matter relevant to the deliberations of the Board unless authorised to make that disclosure or it is in the public interest that the disclosure be made.

Disclosure interests

13.-(1) A member shall disclose to the Board any direct or indirect interest the member may have in any matter that is being considered or about to be considered by the Board is disclosed to the Board.

(2) A disclosure of interest under subsection (1) shall be recorded in the minutes, and upon making the disclosure, the member shall leave the meeting when the matter is under consideration, but without prejudice to the constitution of the quorum for that meeting.

(3) If the Chief Executive Officer or an officer of the Authority is requested to attend its Board meeting, this section and section 12(2)(d) apply to the Chief Executive Officer or the officer.

PART 3 — MANAGEMENT AND FINANCE OF AUTHORITY

Appointment of the Chief Executive Officer

14.-(1) The Board may appoint a suitably qualified person as the Chief Executive Officer of the Authority, in accordance with other terms and conditions the Board may approve.

(2) The Chief Executive Officer may be appointed for a term of not less than 3 years, and is eligible for re-appointment.

(3) The Board may appoint suitably qualified person to act as Chief Executive Officer for the purposes of this Promulgation.

(4) The Chief Executive Officer is entitled to remuneration to be fixed by the Higher Salaries Commission.

Functions of the Chief Executive Officer

15.-(1) The Chief Executive Officer shall be responsible to the Board for the management of the Authority.

(2) The Chief Executive Officer shall attend every meeting of the Board, and if he or she is, for any reason, unable to attend a meeting, the Chief Executive Officer may, in consultation with the Chairperson, nominate an officer to attend on his or her behalf.

(3) The Chief Executive Officer shall not engage in any other business without the prior consent of the Board.

Appointment of staff

16.-(1) The Authority may employ other officers and staff for the purposes of this Promulgation.

(2) The Board shall approve policies and procedures relating to the employment of officers and staff of the Authority and such policies and procedures shall constitute the conditions of employment of the staff of the Authority.

(3) The policies and procedures referred to in subsection (2) shall relate to-

(a) the appointment, promotion, transfer, suspension, retirement, retrenchment and termination;

- (b) job descriptions, job classifications, employer and employee duties, privileges, responsibilities and performance criteria;
- (c) the remuneration and conditions of employment of staff;
- (d) disciplinary offences and procedures;
- (e) the imposition of penalties for disciplinary breaches;
- (f) matters guaranteeing the equal opportunity and treatment all of employees;
- (g) matters relating to the welfare of staff; and
- (h) issues relating to safe work practices and the assurance of a safe and healthy working environment under the Health and Safety at Work Act 1996.

Funds of the Authority

17. The funds of the Authority for the purposes of this Promulgation shall consist of-

- (a) any money appropriated by Parliament;
- (b) rates, fees and other charges received by or on behalf of the Authority by virtue of this Promulgation; and
- (c) any other money received by or on behalf of the Authority.

Borrowing powers, etc

18.-(1) For the purposes of its functions and powers under this Promulgation, the Authority may borrow any amount not exceeding \$100,000 per transaction from a lending institution.

(2) The Authority shall first obtain the approval of the Minister and the Minister responsible for Finance for any amount exceeding \$100,000, subject to terms and conditions imposed by the Minister responsible for Finance.

(3) The Authority shall not undertake any capital projects exceeding \$1,500,000 except with the approval of the Minister and after the Minister has consulted the Minister responsible for Finance and the Minister responsible for Public Enterprises.

(4) The Minister may, by regulations, increase the amount specified under this section.

Financial year

19. The financial year of the Authority shall be determined by the Board with the approval of the Minister.

Half yearly and annual reports

20.-(1) A report required under this section shall-

(a) be submitted to the Minister, the Minister responsible for Public Enterprises and the Minister responsible for Finance; and

(b) be tabled by the Minister in both Houses of Parliament.

(2) The Authority shall provide a report on its operation for the first half of a financial year.

(3) The half-yearly report under subsection (2) shall-

(c) be given within 2 months after the end of the first half of the financial year; or

(d) if another period is agreed to between the Minister and the Board, be given within the agreed period.

(4) A half-yearly report under subsection (2) shall include the information required to be given in the statement of corporate intent.

(5) Within 3 months after the end of each financial year, the Authority shall prepare-

(a) a draft report on its operations for that financial year;

(b) an unaudited consolidated financial statement for that financial year consisting of statements of financial position, profit and loss, changes in financial position, and any other statements as may be necessary to show as accurately as possible its financial position.

(6) A draft report prepared under subsection (5)-

(a) shall as far as possible contain information required to be contained in its annual report; and

(b) is not required to be tabled in Parliament.

(7) Within 5 months after the end of each financial year, the Authority shall prepare-

(a) an annual report on its operations for that financial year;

(b) audited consolidated financial statements for that financial year consisting of statements of financial position, profit and loss, changes in financial position, and any other statements as may be necessary to show as accurately as possible its financial position;

(c) the auditor's report on those financial statements.

(8) The annual report shall contain such information as is necessary to enable an informed assessment of the operations of the Authority, including a comparison of its performance with its statement of corporate intent.

(9) Subsection (7) does not limit the matters that are required to be included in or to accompany the annual report as required by any other written law.

(10) The Authority may request the Minister to delete from its report to be tabled in the House of Representatives or to be made public, any matter that is of a commercially sensitive nature, and the Minister may delete such commercially sensitive nature from the report.

Corporate plan

21.-(1) The Authority shall have a corporate plan setting out the following-

(a) the plans for its future operations;

(b) the forecasts relating to the current financial year and the next 2 financial years of profit and loss account;

(c) the balance sheet;

(d) the sources and applications of funds;

(e) cash flows;

(f) statement of the assumptions on which the forecasts are based; and

(g) any other information as is necessary for such plans.

(2) The Authority shall, within the prescribed time, prepare a draft corporate plan and submit it to the Minister responsible for Public Enterprises for his approval after consulting the Minister and the Minister responsible for Finance.

(3) The corporate plan shall be in accordance with its statement of corporate intent.

(4) This section does not limit the matters that are required to be included in or to accompany the corporate plan as required by any other written law.

Statement of corporate intent

22.-(1) The Authority shall have a statement of corporate intent for each financial year setting out the following-

- (a) an outline of its objectives;
- (b) an outline of its main undertakings for that year or for the long term;
- (c) a summary of the main elements of its corporate plan and any other matters set out under this Act or any other written law;
- (d) the financial and non-financial performance targets for its activities;
- (e) an outline of the nature and scope of its activities proposed to be undertaken;
- (f) an outline of its policies and procedures relating to acquisition and disposal of its major assets;
- (g) its accounting policies;
- (h) its financial and non-financial targets and other measures by which its performance may be judged in relation to its objectives;
- (i) an estimate of the amount or proportion of accumulated profits and capital reserves that is intended to be distributed to the State;
- (j) an estimate of the commercial value of any State investment in it and the manner on which, and the times at which such value is to be reassessed;
- (k) the type of information to be given to the Minister, Minister responsible for Public Enterprises and the Minister responsible for Finance in the course of the financial year, including information to be given in half-yearly and annual reports;
- (l) its non-commercial obligations undertaken for the benefit of Fiji, including the costing, funding and other arrangements on such obligations;
- (m) any other matter as the Minister may specify in writing to it.

(2) The Authority shall, within the prescribed time, prepare a draft of its statement of corporate intent and submit it to the Minister responsible for Public Enterprises for his approval after consulting the Minister and the Minister responsible for Finance.

(3) This section does not limit the matters that are required to be included in or to accompany the statement of the statement of corporate intent as required by any other written law.

Audit

23.-(1) The Authority is required to be audited at least once in every year.

(2) The audit is to be conducted in accordance with the Audit Act and the Financial Management Act, except where the audit is conducted by a person appointed by the Board under section (3)(b).

(3) The audit is to be conducted-

(a) by the Auditor-General or a person authorised or contracted under the Audit Act to carry it out, unless the Authority is exempted from audit under that Act by the regulations under that Act; or

(b) by a person appointed by the Board, if the Authority is so exempted from audit under the Audit Act.

(4) The person appointed by the Board under section (3)(b) is to be-

(a) the person that the Minister responsible for Finance directs the Board in writing to appoint; or

(b) if the Minister responsible for Finance gives no such direction, the person chosen by the Board.

(5) This section applies notwithstanding any other written law.

PART 4 — OPERATIONS OF THE AUTHORITY

Rights to use or access land

24.-(1) An officer of the Authority may enter, remain or cross any land at any reasonable time when carrying out any function or power under this Promulgation.

(2) If the Authority does any work on the property of another person, for the purposes of this Promulgation, the Authority shall, as far as is practicable -

(a) ensure that little damage is caused to the property; and

(b) restore the surface of and repair any damage on, such property.

Government may direct Authority to undertake certain work

25.-(1) The Minister may, with the approval of Cabinet and by his or her written directions, require the Authority to undertake any work specified in such directions.

(2) When implementing any direction given under subsection (1), the Authority shall comply with the requirement of any other written law affecting such directions or its functions and powers.

(3) The Government is responsible for the costs of undertaking any work required under any direction given under subsection (1), subject to agreement on the costs between the Government and the Authority.

(4) If the Government requires the Authority to undertake an activity that is not in the commercial interests of the Authority, such activity shall be deemed to be a non-commercial obligation under Division 13 of Part 3 of the Public Enterprise Act 1996.

Authority may supply services

26. The owner or occupier of premises in an area where the Authority is able to supply water or provide sewerage or other services to such premises may, in writing, apply to the Authority for the supply of water or for the provision of sewerage or other services, subject to conditions.

Installation of service connection points

27.-(1) The Authority may provide service connections to premises within the vicinity of such premises.

(2) No owner or occupier of premises shall connect the premises to the Water System or Sewerage System except with the prior written approval issued by the Authority.

(3) A connection made by the owner or occupier under subsection (2) shall be done at the expense of the owner or occupier, subject to conditions imposed by the Authority.

(4) A connection to the Water System shall be metered, unless the Authority dispenses with the meter requirement.

Water quality standards

28.-(1) The Minister responsible for Health may -

(a) approve water quality standards, including standards for treatment of water and assets used for such treatment; and

(b) direct the Authority or, in certain circumstances, the owner or occupier of premises supplied with water, to meet the standards.

(2) The Authority and, in certain circumstances, the owner or occupier of premises that are being supplied with water, shall comply with standards.

(3) If any standard under subsection (1) is not complied with, the Authority or owner or occupier may disconnect the water supply to affected premises.

Notice to be given of removal of property

29.-(1) If the owner or occupier of premises intends to remove his or her property which is connected to the Water or Sewerage System, the owner or occupier shall give 14 days written notice to the Authority, including the address of the premises, the description of the property to be removed and the date and time for such removal.

(2) The owner or occupier that gives notice under subsection (1) is liable for any damage to the assets of the Authority arising out of the removal of such property.

Conditions of supply

30.-(1) The Authority may, when connecting premises to its Water or Sewerage System, impose conditions of supply, which shall form the basis of the contractual relationship between the Authority and the customer.

(2) Any condition provided under subsection (1) may be amended by the Authority, and if the condition applies to any existing customer, the Authority shall give written notice to the existing customer.

(3) For the purposes of subsection (2), the Authority may publish such written notice-

(a) on 3 separate days in at least 2 newspapers circulating widely in Fiji; or

(b) on 3 separate days on a radio station or television station broadcasting widely Fiji.

(4) The obligations of a customer in relation to supply are-

(a) to be aware of the liability to the Authority and to promptly pay for services provided by the Authority;

(b) to protect the assets of the Authority;

(c) to provide correct and up to date information to the Authority, including changes of ownership and occupation of premises;

(d) to promptly advise the Authority of any defects in the assets of the Authority and to minimise any damage or consequence of such defects;

(e) to permit Chief Executive Officer, officers and staff of the Authority to have access to the customer's premises in order to carry out the Authority's work in accordance with this Promulgation.

(5) The obligations of the Authority in relation to supply are -

(a) to only impose charges and price increases in accordance with the Commerce Act 1998;

(b) to provide timely response to reports of defects in its assets affecting the supply to customers or posing risks to life or property; or

(c) to provide as efficient and affordable a service as is possible to as many areas as are possible.

Power to discontinue or ration supplies

31.-(1) In addition to any other powers of the Authority under this Promulgation, the Authority may without notice discontinue, ration or limit any supply of water or other service provided by it if it considers it necessary or desirable to do so-

(a) by reason of any accident or emergency;

(b) to facilitate any work done or to be done by the Authority;

(c) to avoid or limit pollution; or

(d) for the conservation of water.

(2) For the purposes of subsection (1), the Authority shall-

(a) by two or more radio announcements; or

(b) by personal notice given to affected customers,

give notice of its action and indicate the likely duration of such discontinuance, rationing or limitation.

No claim for failure of or interruption to supply

32.-(1) The Authority shall not be liable for any loss or damage suffered by a person, if there is an increase, diminution or discontinuance in the supply of water or any other service provided by the Authority, or if there is a diminution in the quality of water-

(a) caused by accident, drought or other natural phenomenon or other unavoidable cause;

(b) caused by the Authority purporting to act in good faith in the proper exercise of its functions; or

(c) resulting from the exercise by the Authority of its power under this Promulgation.

(2) If the Authority intends to do any act which is likely to increase, diminish or discontinue the supply of water or any other service, or to diminish the quality of water supplied to any premises, the Authority shall, if practicable, give 24 hours notice of such intention to the customers likely to be affected.

(3) For the purpose of subsection (2) it shall be sufficient notice to customers if the notice is published at least once in two newspapers circulating widely in Fiji and announced at least once on a radio station and a television station broadcasting throughout Fiji.

Fixing of rates

33.-(1) Subject to the Commerce Act 1998, the Board may fix the amount of rates including interests on unpaid rates, to be paid in respect of any service and any matter associated with the provision of services in accordance with this Promulgation.

(2) Prior to imposing or increasing any rate under subsection (1), the Authority shall give public notice of proposed imposition or alteration through public notices in at least two newspapers circulating widely in Fiji.

(3) The conditions of supply of such service may make provision in relation to any matter associated with the levying of rates by the Authority, and mechanisms for their collection.

Obligation to pay rates, interests and discounts

34.-(1) The owner of premises to which services are provided by the Authority is liable to pay any rates due to the Authority in respect of such services.

(2) If any rates remain unpaid at the expiry of 30 days from the date on which the rates fall due the Authority may charge the prescribed interest on the amount of the unpaid sum from the date they fall due until the date of payment.

(3) The Authority may fix and allow discounts for prompt payment of rates, fees and charges.

Disconnection of supply of water

35.-(1) If any rates in respect of any premises remain unpaid after becoming due for payment, the Authority may disconnect the supply of water in accordance with the prescribed procedures.

(2) If the supply of water is disconnected under subsection (1), the supply shall not be reconnected unless the owner or occupier of the premises applies for reconnection and pays all costs associated with the disconnection and reconnection of the supply and all outstanding amounts.

PART 5 — MISCELLANEOUS

Offences of willful destruction of assets of the Authority and obstruction, etc

36.-(1) A person who willfully, destroys, damages, tampers with or interferes with any assets of the Authority, including its Water System or Sewerage System commits an offence and is liable on conviction to a fine not exceeding \$1,000,000 or to imprisonment for a term not exceeding 10 years.

(2) A person who-

(a) obstructs or attempts to obstruct the officer of the Authority in the exercise of any power or duty under this Promulgation;

(b) sells or offers for sale any prescribed plumbing or associated hardware for the exclusive use of the Authority or uses such plumbing hardware in any manner inconsistent with the regulations,

(c) contravenes section 8(1) (k);

commits an offence and is liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years.

(3) In this section, "officer" includes a member of the Board and the Chief Executive Officer.

Authority may prosecute

37.-(1) The Authority may institute and conduct prosecutions in respect of any offence alleged to have been committed against this Promulgation, subject to the powers of the Director of Public Prosecutions.

(2) Upon securing a conviction in relation to a prosecution taken under subsection (1), the Authority is entitled to the costs incurred by the Authority in the conduct of the prosecution.

Authority may delegate

38. Without prejudice to sections 31A to 31C of the Interpretation Act, the Authority may, subject to conditions, delegate to a person its functions or powers under this Promulgation or any other written law.

No liability for escape of water

39. The Authority is not liable for any loss or damage arising from the escape of water from its assets.

Protection of persons acting under authority

40. An officer or staff of the Authority shall not be personally liable for any act done in good faith arising out the exercise of any power or duty under this Promulgation.

Binds the Government

41. This Promulgation binds the Government.

Regulations

42.-(1) The Minister may make regulations to give effect to the provisions of this Promulgation, and in particular for the purposes of-

- (a) prescribing forms, permits or notices, for the purposes of this Promulgation;
- (b) prescribing standards for waste water treatment;
- (c) prescribing other fees, charges and the rate of interests for the purposes of this Promulgation;
- (d) regulating use, conservation and management of water resources;
- (e) regulating pollution that may affect water resources or Water System;

(f) regulating the supply of water in times of deficiency or anticipated deficiency of water, including emergency situations;

(g) prohibiting use of certain plumbing and associated hardware by other persons, for the purposes of exclusive use of the Authority;

(h) regulating the procedures for competitive tender processes required under this Promulgation.

(2) If forms are required to be prescribed under subsection (1), the Authority shall use the prescribed forms, and if no such forms are prescribed, the Authority may, approve forms for such purpose.

(3) Any regulation made under this Promulgation may prescribe fines not exceeding \$2,000 or imprisonment for a term not exceeding 12 months.

Repeals and consequential amendments

43.-(1) The Water Act (Cap. 144) and the Sewerage Act (Cap. 28) are repealed.

(2) Any subsidiary legislation made pursuant to the Acts repealed under subsection (1) continues in force until replaced by subsidiary legislation made under this Promulgation.

(3) From the commencement of this Promulgation, any reference to the Department in any written law, contract, instrument, register, other public or private document or court proceedings shall be replaced with the Authority.

Transitional and savings

44.-(1) Any contract entered into by the Department on behalf of the Government and exists as at the commencement of this Promulgation shall continue in force and is deemed to have been entered into by the Authority pursuant to this Promulgation, unless the Government and Authority agrees in writing that the contract to remain with the Government.

(2) All fees, dues, and charges owing to the Government through the Department and unpaid as at the commencement of this Promulgation, are transferred and payable to the Authority.

(3) At the commencement of this Promulgation, any valid approval, permit or authority granted pursuant to the Acts repealed under subsection 43(1) shall continue in force and is deemed to have been issued under this Promulgation.

(4) If any law requires that notice of any matter be given to the Department, the person obliged to give the notice shall give the notice to the Authority.

(5) The Minister may make regulations to provide for other transitional and saving provisions.

GIVEN UNDER MY HAND this 21st day of August 2007.

J. I. ULUIVUDA
President of the Republic of the Fiji Islands

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