

WATER RESOURCES MANAGEMENT AND REGULATION BILL, 2025

EXPLANATORY MEMORANDUM

This Bill seeks to provide an institutional framework for the sustainable management, conservation, controlled allocation, development, use and regulation of the water resources in the State of Grenada by establishing the National Water Resources Management Unit to manage the water resources of the State.

This Bill contains **6 parts, 56 clauses**.

PART I provides for the preliminary provisions and contains **Clauses 1 – 4**.

Clause 1 provides for the short title and commencement and a mechanism for staggering the implementation of different provisions of the Bill.

Clause 2 provides for the definitions of terms used in the Bill.

Clause 3 sets out the objective of the Bill which is – “to ensure that the State’s water resources are managed, developed, protected, conserved, allocated and used in a manner that is conducive to, the fundamental principles set out in clause 5”.

Clause 4 sets out the declared policy concerning the management of water resources to ensure the orderly and coordinated development and use of the State’s water resources and to conserve and to protect the water resources of the State for the benefit of the present and future generations of Grenadians. In promoting this policy the Minister must promote a national policy for the provision of water in the State and ensure the execution of that policy by the entities responsible thereof. The Minister must also discharge functions relating to the provision of water supplies, including augmentation, distribution and proper use of water resources.

PART II provides for Water Resources Management and Administration and contains **clauses 5 – 13**.

Clause 5 sets out the fundamental principles governing the management of water resources.

Clause 6 provides for the promotion of a Master Plan to be developed with respect to the management of water resources.

Clause 7 establishes the Water Management Unit with sufficient independence and autonomy to effectively carry out its functions. The Unit shall be under the portfolio of the Minister responsible for Public Utilities. The Director shall be the

principal advisor to the Government on all matters about managing our water resources. The Unit will be headed by a Director under **clause 8** and such other officers as are necessary for the efficient carrying out of its functions.

Clause 9 declares the Public Utilities Regulatory Commission (PURC) as having regulatory oversight of the Unit. In doing so, the PURC must—

- (a) ensure that the policies of the Government in relation to the management of water resources are implemented by the Unit in an effective and efficient manner;
- (b) advise the Unit on such matters related to water resources management, as the Director may refer to the Commission or as the Commission sees fit; and
- (c) monitor the grant of abstraction licences and permits by the Unit.

Clause 10 addresses the functions of the Unit which include advising the Minister on policy relating to the management of water resources, identifying and protecting potential sources of water, conserving, protecting and preserving the water resources, undertaking the preparation of the Master Plan and such other plans as the Unit may deem necessary, and monitoring the grant of abstraction licences and permits by the Unit;

Clause 11 addresses the revenue of the Unit.

Clause 12 gives the property in and the right to, the use and flow of all water to the State except only in so far as private rights have been established under an abstraction license and permits granted under the Act.

Clause 13 mandates the Director to prepare a draft Master Plan on the water resources for the State subject to guidelines and objectives listed under sub-clause (5).

PART III provides for Water Quantity and Water Quality Management and contains clauses **14 - 24**.

Clause 14 declares as gathering grounds all areas of land on which water is collected for water works and which are declared to be a protected forest or protected reserve under the Forest, Soil and Water Conservation Act. The provision also empowers the Minister on the advice of the Director to declare areas as additional gathering grounds to augment the supply of water

Clause 15 declares as gathering grounds all areas of land on which water is collected for water works and which are declared to be a protected forest or protected reserve under the Forest, Soil and Water Conservation Act.

Clause 16 provides for the environmental flow level or volume of water resources. It mandates the Director to specify where it is appropriate to do so, after consulting with the Commission and the appropriate authority, the environmental flow or volume of any water resource, taking into consideration any relevant use of water.

Clause 17 empowers the Director after consulting the Commission to reserve all or part of a water resource. Before the Director can exercise this power he or she must publish a notice in the Gazette and in a newspaper in weekly circulation in the State of the proposed reserve and inviting written comments from the public on the proposed specification.

Clause 18 mandates the Authority in collaboration with the appropriate authority to (a) recommend to the Bureau of Standards, ambient water quality standards and ensure that the standards are maintained; and (b) monitor the water resource quality and prevent and control the pollution of water resources.

Clause 19 empowers the Minister acting on the advice of the Unit to declare by notice an area as a water management area to protect any water resource, watershed, wetland, environment or ecosystem at risk of depletion, contamination, extinction or disturbance from any source, including aquatic and terrestrial weeds. This power cannot be exercised without giving the owner of any land within the proposed water management area, the opportunity to make representations regarding the need for the water management area.

Clause 20 Where an area is declared as a water management area persons are prohibited to undertake any activity in the area that impairs or conflicts with the purposes of a declaration under clause 19.

Clause 21 allows the Minister acting on the advice of the Unit by Notice published in the *Gazette* (a) amend the geographic boundaries of a water management area, or any prohibition or limitation applicable to the area, if circumstances in respect of the area change or so require; or (b) withdraw a declaration of a water management area, if the circumstances under which the declaration was made no longer exist.

Clause 22 creates an offence for polluting any water resource for which the Unit may issue an order for the person to take certain measures under **clause 23(1)**, where it is satisfied that the activities of any person may lead or give rise to the pollution of a water resource. Provision is also made in the Bill for the declaration of a water-related emergency, where the Commission, acting on the advice of the Unit, is satisfied that any of the circumstances specified under **clause 24(1)** exist, including (*permitting the taking of water from a particular source, prohibiting or limiting the use of water for any specified purpose or prohibiting any activity which may contaminate a water resource*).

PART IV provides for the abstraction of Water and contains clauses **25 - 40**.

Clause 25 declares that the abstraction of water and the construction of any works to facilitate abstraction is governed by this Act. Sub-clause (2), provides that the owner of the land and the family and employees of the owner shall be entitled to abstract and use any water within the boundary of the land for domestic use on condition that the abstraction does not compromise the quality and quantity of the water supply.

Clause 26 mandates persons who intend to abstract and use water, must obtain an abstraction licence. Failure to obtain the licence will attract a criminal penalty.

Clause 27 allows persons who have been abstracting water for a continuous period of twenty-four months prior to the appointed day, subject to clause 25, shall be entitled, on an application made to the Unit within six months of the appointed day, to be granted an abstraction licence for a period which expires one year after the appointed day.

Clause 28 provides for applications for an abstraction licence for purposes outside of 25 (2), which must be made by the Minister through the Unit. Sub-clause (2) sets out the information that an application should include (*e.g. name of applicant, the water resource from which the proposed abstraction will be made, the proposed location of the abstraction etc.*) Recommendations are made by the Unit to the Minister on the granting or refusal of the Licence.

Clause 29 provides the criteria that the Unit will consider in making a recommendation to the Minister for the grant or refusal of an abstraction licence.

Clause 30 provides for the grant or refusal of an abstraction license.

Clause 31 addresses circumstances where no recommendation is made by the Unit on the grant or refusal of the application and the Minister fails to give the applicant notice of the grant or refusal of the application within 14 days, the applicant shall have the right to make a case before the Unit and the Unit shall hear the case following an application to the Unit by the applicant.

Clause 32 provides for the Grant and form of an abstraction licence. The licence will contain the name of the person to whom it is granted, the duration of the licence, the location of the abstraction and the location of the use etc.

Clause 33 provides for easement agreements between an abstraction and a land owner while **clause 34** provides for the validity period of an abstraction licence.

Clause 35 provides that where an allegation of breach of an abstraction licence is made, the Unit breaches an abstraction licence for breaches by an abstraction licensee of an abstraction licence.

Clause 36 provides for the renewal of abstraction licences.

Clause 37 provides for the amendment, suspension and revocation of abstraction licences by the Minister acting on the advice of the Unit. Sub-clause (2) provides that suspension of an abstraction licence may occur if the abstraction licensee fails to pay any fees or charges, if the licensee notifies the Unit that operations for which the licence was granted will cease or if the person is in breach of terms and conditions or any provision of the Act or Regulations. Sub-clause (7) provides circumstances which will lead to the revocation of a licence, including if the licensee ceases to comply with the Act or Regulations, the application for the licence contained false or misleading information in a material particular, or that the abstraction licensee failed to commence operations within the specified time.

Clause 38 criminalises failure by abstraction licensees to comply with directions given to them by the Unit.

Clause 39 prohibits persons from causing or allowing any underground water to run waste from any well or other work except to test the quality of it or to clean sterilize examine or repair the well or other work or where it threatens to interfere with the execution of any underground works.

Clause 40 provides for special power of Unit in relation to aquifers. The powers includes determining the safe yield of any aquifer for the purpose of guiding determinations concerning the abstraction and use of water from the aquifer, and imposing special requirements and restrictions with respect to wells, for the purpose of preventing waste or contamination of water, or loss of artesian pressure.

PART V provides for Water and Waste Control Areas and Permits and comprises of clauses **41 - 53**.

Clause 41 empowers the Commission on the advice of the Unit to regulate the use of water or classes of water in any area where necessary in the public interest.

Clause 42 empowers the Commission on the advice of the Unit to regulate the discharging of wastes or classes of waste to protect the water resources from pollution or reduction in water quality, the Commission can by Order declare an area to be a waste control area.

Clause 43 prohibits the use of water in a water control area or discharging waste or a class of waste in a waste control area, except it is done in accordance with a permit granted for that purpose.

Clause 44 provides for the right to obtain permits. This applies to persons who have been using water in a water control area for a continuous period of at least 24 months immediately before the appointed day and shall be entitled on an application made to the unit within 6 months of the appointed day grant of a permit for a period which expires one year after the appointed day.

Clause 45 provides for application for permits to abstract or use water in a water control area or discharge waste or a class of waste in a waste control area. These licences are granted by the Minister upon the recommendation of the Unit.

Clause 47 provides for the grant or refusal of a permit within fourteen days of receiving the recommendation of the Unit. If the Minister grants or refuses the permit contrary to the recommendation of the Unit, the Minister must give reasons in writing for the grant or refusal. A person who is aggrieved by the Minister can appeal the decision to the Appeals Tribunal under clause 54.

Clause 48 provides for circumstances where no recommendation is made by the Unit within the specified time or the applicant fails to receive notification from the Minister within fourteen days (clause 46(3)). The applicant will have the right to make a case before the Unit. If after a hearing, the application is refused or the Unit fails to make a recommendation or the Minister fails to give notice within fourteen days of the hearing, the applicant has the right to appeal under clause 54

Clause 49 provides for the grant and form of the permit, while **clause 50** provides for the validity period of a permit.

Clause 51 provides for circumstances where allegations of breach are made to the Unit by an aggrieved person or where the Unit suspects that a permit holder is in breach of the Permit, the Unit shall conduct an investigation. If the allegations are substantiated, the Unit will issue directions to the permit holder. If the allegations are not proven the Unit will cease its investigation and the aggrieved person will be liable for any cost incurred by the Unit.

Clause 52 empowers the Minister on the advice of the Unit to suspend or revoke a permit if the permit holder fails to comply with a direction given by the Unit under clause 51.

Clause 53 criminalises the breach of failing to comply with a direction of the Unit given under clause 51.

PART VI provides for Appeal and Miscellaneous Provisions and contains clauses **54 – 56**.

Clause 54 establishes an Appeals Tribunal for hearing and deciding appeals on matters referred to it. The Tribunal may—

- (a) dismiss the appeal and confirm the decision;
- (b) allow the appeal and set aside the decision;
- (c) vary the decision; or
- (d) allow the appeal and direct that the matter, the subject of the appeal, be determined anew by the Unit or the Minister.

Clause 55 empowers the Minister on the advice of the Unit to make Regulations to better carry out the objectives of the Act.

Clause 56 provides for the Crown to be bound by the Act.

.....
Sen. the Hon. Claudette Joseph
HON. ATTORNEY-GENERAL

WATER RESOURCES MANAGEMENT AND REGULATION BILL, 2025

ARRANGEMENT OF CLAUSES

PART I PRELIMINARY

1. Short title and commencement
2. Interpretation
3. Objective of Act
4. Statement of policy

PART II WATER RESOURCES MANAGEMENT AND ADMINISTRATION

5. Fundamental principles governing the management of water resources
6. Promotion of Master Plan
7. Establishment of Unit
8. Appointment of Director and staff of Unit
9. Commission to have regulatory oversight of the Unit
10. Functions of Unit
11. Revenue of Unit
12. State rights in water
13. Preparation of Master Plan

PART III WATER QUANTITY AND WATER QUALITY MANAGEMENT

14. Gathering grounds
15. Protection of defined area around gathering grounds
16. Environmental flow level or volume of water resource
17. Reserve
18. Ambient standards, water resource quality and monitoring and pollution control
19. Declaration of water management area
20. Effect of declaration of water management area
21. Amendment of declaration of water management area and withdrawal of declaration
22. Pollution of water resources
23. Steps to control or prevent water pollution
24. Water-related emergencies

PART IV ABSTRACTION OF WATER

25. Private use of water
26. Requirement for abstraction licence

27. Abstraction licence as of right
28. Application for abstraction licence
29. Recommendation by Unit
30. Grant or refusal of abstraction licence
31. No recommendation or notice
32. Grant and form of abstraction licence
33. Easement
34. Validity of abstraction licence
35. Breaches by abstraction licensee
36. Renewal of abstraction licence
37. Review, amendment, suspension and revocation of abstraction licence
38. Offence of not complying with direction of Unit for abstraction licence
39. Waste of underground water from wells unlawful
40. Special power of Unit in relation to aquifers

PART V

WATER AND WASTE WATER CONTROL AREAS AND PERMITS

41. Water Control Area
42. Waste Control Area
43. Requirement for permit
44. Permit as of right
45. Application for permit
46. Recommendation by Unit for permit
47. Grant or refusal of permit
48. No recommendation or notice for a permit
49. Grant and form of permit
50. Validity of permit
51. Breaches by permit holder
52. Suspension or revocation of permit
53. Offence of not complying with the direction of the Unit for a permit

PART VI

APPEALS

54. Appeal and Miscellaneous Provisions
55. Regulation
56. Act binds the Crown

WATER RESOURCES MANAGEMENT AND REGULATION BILL, 2025

GRENADA

ACT NO. OF 2025

AN ACT to provide the institutional framework for the sustainable management, conservation, controlled allocation, development, use and regulation of the water resources in Grenada, Carriacou and Petite Martinique, by establishing the National Water Resources Management Unit and to provide for connected matters.

BE IT ENACTED by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives and by the authority of the same, as follows—

PART I PRELIMINARY

Short title and commencement

1. (1) This Act may be cited as the

WATER RESOURCES MANAGEMENT AND REGULATION ACT, 2025.

- (2) This Act shall come into operation on a date to be fixed by the Minister by Order published in the *Gazette* and different days may be appointed by the Minister under this section in respect of different Parts or provisions of this Act.

Interpretation

2. In this Act—

“**abstract**” means the process by which water in its natural environment may be artificially removed through a manmade structure or through the process of changing the flow of the water from its usual course to another course;

“**abstraction licence**” means an abstraction licence granted pursuant to section 32;

“**abstraction licensee**” means a person who holds a valid abstraction licence granted pursuant to this Act;

“**allocation**” means the quantity of water set aside for a specific purpose or that for which an abstraction licensee or permit holder is entitled to take or use for a particular purpose, as specified in the abstraction licence or permit;

“Appeals Tribunal” means the Appeals Tribunal established pursuant to section 54;

“appointed day” hereinafter used in or with reference to a provision of this Act, means the appointed day under section 1 in respect of the provision concerned;

“applicant” means a person who makes an application for an abstraction licence or a permit under this Act;

“appropriate authority” means the Minister responsible for public utilities or an officer or body having functions under any law over any water resource, or activity situated in a catchment area, and includes an authorised officer, body or institution under any of the following enactments—

- (a) the Forest Soil and Water Conservation Act;
- (b) the Grand Etang Forest Reserve Act;
- (c) the Fisheries Act;
- (d) the Physical Planning and Development Control Act;
- (e) the Public Health Act; and
- (f) any treaty, agreement or convention relating to the management of water resources to which the State is a State Party;

“aquifer” means a geological structure or formation or an artificial landfill permeated or capable of being permeated permanently or intermittently with water;

“Authority” means the Water and Sewerage Authority established under the National Water and Sewerage Authority Act Chapter Cap 208;

“borehole” means any hole, well, excavation or other opening in the ground or any naturally or artificially constructed or improved underground cavity, which could be used, is used, or may be used, for the purpose of intercepting, collecting, obtaining or using groundwater or for disposing of any water or waste below the surface of the ground, or which extends to an aquifer;

“Bureau of Standards” means the Bureau of Standards established pursuant to the Standards Act Cap 310;

“catchment” means a geographical area which naturally drains into a water resource and from which the water resource receives surface or groundwater flow that originates from rainfall;

“Commission” means the Public Utilities Regulatory Commission, (PURC) established pursuant to section 4 of the Public Utilities Regulatory Commission Act No. 20 of 2016;

“Director” means the Director of the Water Resource Management Unit, appointed pursuant to section 8;

“dispose” includes transfer, destroy, sell, abandon or dismantle;

“domestic use” in relation to the abstraction of water, means the use of such water for—

- (a) drinking, washing, cooking and sanitary purposes in connection with a residence; or
- (b) subsistence gardening, the watering of stock or pen keeping, in connection with a household; and

excludes the use of such water for commercial purposes;

“easement” means a right to enter on the land of any person for the purpose of constructing or maintaining works or storing water thereon or for carrying water under, through or over such land and for all or any such purposes;

“effluent” means wastewater or fluid of domestic, agricultural or industrial trade or other origin, treated or untreated and discharged directly or indirectly into a water source;

“environment” means all aspects of a person’s surroundings, including the physical, biological, economic, cultural and social aspects of such surroundings;

“environmental flow” means the water provided within a water resource to maintain ecosystems and their benefits, where there are competing users and where flows are regulated by means of waterworks or management constraints;

“functions” includes powers and duties;

“gathering ground” means any area of land which collects rainwater and declared to be a gathering ground under section 14;

“Government” means the Government of Grenada, Carriacou and Petit Martinique;

“ground water” means all water naturally stored or flowing below the surface of the ground and not apparent on the surface of the ground and includes water occurring or obtaining in or obtained from any bore or aquifer;

“management” in relation to a water resource includes—

- (a) planning the sustainable development of the water resource and providing for the implementation of the Master Plan or any other plan relating thereto; and
- (b) promoting and carrying out the necessary functions to ensure the rational and optimal development, utilization, protection, conservation, and control of the water resources;

“Master Plan” means the National Water Resources Management Master Plan prepared in accordance with Part II;

“Minister” means the Minister responsible for public utilities;

“owner” in relation to any building or land, means a person, other than a mortgagee not in possession, who for the time being—

- (a) is entitled to dispose of the right of ownership of the building or land, whether in possession or reversion; or
- (b) holds or is entitled to the rights and profits of the building or land under a lease or agreement, where the unexpected term thereof exceeds twelve years;

and includes, where the person referred to in paragraph (a) or (b) is absent or under any disability, the agent of such person or, if there is no such agent, the occupier of the building or land;

“pollution” in relation to water means any direct or indirect alteration of the physical, thermal, chemical or biological properties of water so as to make it—

- (a) less fit for any biological purpose for which it is or may reasonably be expected to be used; or

(b) harmful or potentially harmful to—

- (i) the welfare, health and safety of human beings;
- (ii) any aquatic or non-aquatic life or property or the environment;

“prescribed” means prescribed by Regulations;

“raw water” means water which does not meet the quality standards for potable water set under any law in force in the State;

“raw water supply service” includes the, storing, transporting and distribution of raw water and the offering for sale or the sale of raw water;

“reserve” in relation to a water resource, means the quantity or quality of water required to—

- (a) satisfy the basic human needs of all the people who are or may be supplied from the water resource; and
- (b) protect aquatic ecosystems, in order to secure ecologically sustainable development and use of the water resource;

“Regulations” means Regulations made pursuant to section 55;

“State” means the State of Grenada, Carriacou and Petite Martinique;

“subsistence garden” means a garden, used in connection with a dwelling or group of dwellings, for the subsistence of the residents of the dwelling, the produce of which is predominantly consumed by the residents;

“Unit” means the Water Resources Management Unit established pursuant to section 7;

“water” means water in its natural state, including—

- (a) water flowing or situated upon the surface of any land;
- (b) water flowing or contained in any natural course for water or any lake or spring, whether or not it has been altered or artificially improved;
- (c) estuarine or coastal water;

- (d) groundwater;
- (e) rainwater; and
- (f) water contained by waterworks acquired, constructed, improved or operated for the purposes of providing a water supply service;

“watercourse” includes all rivers, streams, ditches, gullies, culverts, dykes and passages through which water flows, whether on the surface or underground, except water mains and sewers;

“water control area” means an area declared a water control area under section 41;

“water resource” includes—

- (a) any surface of any land upon which water is situated or is flowing; and
- (b) any water course;

“waterworks” has the meaning assigned to it under section 2 of the National Water and Sewerage Authority Act;

Objective of Act

3. (1) The objective of this Act is to ensure that the State’s water resources are managed, developed, protected, conserved, allocated and used in a manner that is consistent with, or conducive to, the fundamental principles set out in section 5.

(2) In order to achieve the objective, set out in subsection (1), suitable institutions, with appropriate stakes and gender representation shall be established.

Statement of Policy

4. (1) It is hereby declared to be the policy of the Government to—

- (a) ensure the orderly and co-ordinated development and use of the State’s water resources; and
- (b) conserve and protect the water resources of the State for the benefit of present and future generations of Grenadians.

(2) The Minister shall, in keeping with the policy requirements under subsection (1)—

- (a) promote a national policy for the provision of water in the State and ensure the effective execution of that policy by the entities responsible thereof;
 - (b) ensure that the discharge of the functions with respect to the provision of water supplies, including the augmentation, distribution and proper use of water resources, are carried out by the unit in such manner so as to secure the effective execution of the policy.
- (3) The Minister, acting on the recommendation of the Commission shall collate and publish or cause to be collated and published information from which assessments can be made of the actual and prospective demand for water and the actual and prospective water resources in the State.

PART II

WATER RESOURCES MANAGEMENT AND ADMINISTRATION

Fundamental Principles governing the management of water resources

5. (1) In addition to the Statement of Policy specified under section 4, the provisions of this Act shall be interpreted and be reasonably and fairly applied in a manner that is consistent with and promotes the following fundamental principles—

- (a) water resources shall be managed in an integrated and sustainable manner;
- (b) water is a basic human need and, as such, domestic use shall enjoy priority of allocation use;
- (c) the environment is a water user and shall enjoy second priority of allocation use to the human need;
- (d) there shall be equitable access to water by every person, in support of a healthy and productive life;
- (e) water shall be used efficiently, sustainably and beneficially, in the public interest;
- (f) there shall be no private ownership of water and no authorisation for its use shall be in perpetuity;
- (g) the State shall be the trustee of the country's water resources and shall ensure that water is allocated equitably, and managed and controlled in a sustainable and equitable manner, in the public interest, while promoting economic, environmental and social values;

- (h) there shall be equity among genders in accessing water resources and, in particular, women shall be empowered and fully participate in issues and decisions relating to the sustainable development of water resources and in the use of water;
- (i) the water resources of the State shall be managed and controlled sustainably, beneficially, reasonably and equitably for the needs of the present and future generations; and
- (j) the management and utilization of water resources shall take into account climate change adaptation.

(2) A person exercising jurisdiction under this Act shall, in relation to any decision or order, or the performance of any function, be guided by the following principles of sustainable integrated water resources management and sustainable development—

- (a) the precautionary principle;
- (b) the polluter pays principle;
- (c) the principle of eco-system integrity;
- (d) the principle of public participation in the development of policies, plans and processes for the management of the water resources; and
- (e) the principle of common but differentiated responsibilities.

Promotion of Master Plan

6. A person who exercises any function under this Act or any other enactment having a bearing on the provision of the management of water resources, shall strive to promote and have regard to the Master Plan developed pursuant to the provisions of Part II, in respect of the management of water resources.

Establishment of Unit

7. (1) There is hereby established, a department of Government to be called the Water Resources Management Unit, which shall be responsible for managing the water resources of the State, in accordance with the provisions of this Act and, subject to the provisions of this Act, the Unit shall have sufficient independence and autonomy to effectively carry out its functions.

(2) The Unit shall be under the portfolio of the Minister responsible for Public Utilities and the Director shall, subject to the provisions of this Act, be the principal advisor to the Government on all matters relating to the management of water resources.

Appointment of Director and staff of Unit

8. (1) For the due administration of the Unit, there shall be appointed by the Public Service Commission—

- (a) a Director, who shall be responsible for the day-to-day management and operation of the Unit; and
- (b) such other officers as may be necessary for the efficient carrying out of the functions of the Unit.

(2) The Director may, in writing, delegate to officers of the Unit, such functions as the Director considers appropriate, with the exception of the power to delegate.

(3) The Director shall not be divested of any function delegated or assigned under subsection (2) and may at any time—

- (a) withdraw any delegation or assignment made under that subsection; or
- (b) vary or set aside any decision made under such delegation.

(4) Before delegating or assigning a function under subsection (2), the Director shall consider the capacity of the officer to exercise or perform the function that is to be assigned or delegated.

Commission to have regulatory oversight of the Unit

9. The Commission is hereby declared to have regulatory oversight of the Unit and, in that regard, shall—

- (a) ensure that the policies of the Government in relation to the management of water resources are implemented by the Unit in an effective and efficient manner;
- (b) advise the Unit on such matters related to water resources management, as the Director may refer to the Commission or as the Commission sees fit;
- (c) oversee and monitor the preparation and implementation of the Master Plan and any other plan or order developed by the Unit pursuant to this Act;
- (d) monitor the grant of abstraction licences and permits by the Unit;
- (e) provide advice to the Director on matters related to the management of water resources; and

- (f) review reports requested by the Commission from the Unit and provide such technical, legal or administrative guidance as it deems fit or as may be required.

Functions of the Unit

10. (1) The primary function of the Unit shall be to promote and adopt a dynamic, gender-sensitive, integrated, interactive, participatory and multi-dimensional approach to the management of water resources, which includes human, land, environmental and socio-economic considerations.

(2) Without prejudice to the generality of subsection (1) and subject to the provisions of this Act, the Unit shall—

- (a) advise the Minister on matters of policy relating to the management of water resources;
- (b) identify and protect potential sources of water;
- (c) conserve, protect and preserve the water resources and take into account the environment, climate change and the challenges posed by climate change by—
 - (i) measuring, minimizing and managing the impacts of climate change on the water resources, using effective adaptation approaches;
 - (ii) being proactive in adopting watershed protection, wetlands and infrastructure programmes;
 - (iii) developing tools, standards, guidelines and best practices to understand and measure the nature and magnitude of chemical, biological and physical effects of climate change on water resources;
 - (iv) applying environmental science, technology and information to guide and support proactive climate change planning and management;
 - (v) ensuring extensive participation in intergovernmental and inter-agency research planning related to climate change;
 - (vi) investing in climate change education on issues related to water and supporting the sharing of information about Government's responses to the impacts of climate change;

- (d) plan for and ensure the sustainable and rational utilization and management of water resources based on public needs and priorities within the framework of national economic developmental policies;
- (e) provide access to water resources of acceptable quantity and quality for various purposes;
- (f) in consultation with the institution responsible for national statistics, establish and maintain an information system, which shall be accessible to the public, and for which regulations shall prescribe the content to be included therein, and such information system shall include relevant hydrological, hydrogeological, meteorological, climatological, water quality, water storage and supply and use data, and relevant information on potentials for the use of water;
- (g) provide public forecasts, projections and information on water resources;
- (h) receive and consider applications for abstraction licences and permits and make recommendations to the Minister for the approval of such applications and the suspension or revocation of such abstraction licences and permits;
- (i) promote public awareness concerning the management of water resources;
- (j) undertake the preparation of the Master Plan and such other plans as the Unit may deem necessary in the carrying out of its functions;
- (k) allocate water resources in conformity with the provisions of this Act;
- (l) protect and control the quality and quantity of water resources in accordance with the provisions of this Act;
- (m) advise the Commission in relation to water related emergencies pursuant to section 24;
- (n) advise the Minister in relation to gathering grounds pursuant to section 14;
- (o) exercise planning functions as provided under this Act in relation to the Master Plan and such other plans as it may deem necessary in relation to its functions;

- (p) prepare and submit to the Commission for approval, annual reports on the state of the water resources in the State;
- (q) enforce and implement the provisions of this Act; and
- (r) perform such other functions relating to the management, conservation, controlled allocation, development, use and regulation of water resources as may be assigned to it by or under this Act or any other enactment.

(3) The Minister may, after consultation with the Commission and the Director, give to the Unit such directions of a general character as to the policy to be followed by the Unit in the carrying out of its functions as appear to the Minister to be necessary in the interests of the State and the Unit shall give effect to any such directions.

(4) The Unit shall liaise, consult, collaborate and co-operate with all relevant appropriate authorities, in the management of water resources and may, for such purposes, have joint programmes, plans, strategies and policies, taking into account any national policy with respect to water resources.

(5) Pursuant to subsection (4), the Director shall promote the development of procedures and protocols with the relevant appropriate authorities and other government departments and agencies, to promote the management of water resources and shall ensure that these procedures and protocols are implemented and reviewed regularly.

(6) Where—

- (a) the Unit reasonably suspects that an abstraction licensee or a permit holder is in breach of any of the provisions of this Act, any Regulations made hereunder, or an abstraction licence or a permit held by an abstraction licensee or permit holder;
- (b) an allegation of breach is made to the Unit against an abstraction licensee or a permit holder;

the Unit may conduct such investigation as it considers necessary in relation to the abstraction licensee or permit holder and may do any of the following—

- (A) compel the production of documents and records in the custody or control of the abstraction licensee or permit holder;

- (B) compel the appearance of an employee of an abstraction licensee or permit holder or any other person, for the purpose of ascertaining compliance with this Act or the abstraction licence or permit;
- (C) inspect, examine or make copies of any document or record in the possession of the abstraction licensee or permit holder, that is relevant to the abstraction licence held by the abstraction licensee or the permit held by the permit holder;
- (D) require the verification of income and all other matters pertinent to an abstraction licence or permit;
- (E) inspect any premises for the purpose of ascertaining compliance with the provisions of this Act, any regulations made hereunder or an abstraction licence or permit; or
- (F) seize or remove any document or records relating to the abstraction licence or permit, for the purpose of examination or inspection.

Revenue of Unit

11. (1) For the proper discharge of its functions, the funds and resources of the Unit shall consist of—

- (a) such sums allocated annually for the purpose in the Estimates of Revenue and Expenditure; and
- (b) all other sums or property, which may in any manner become payable to or vested in the Unit in respect of any matter incidental to its functions.

(2) All sums received by the Unit in respect of application fees, licence fees and permit fees and other charges imposed by the Unit under this Act shall be paid into the Consolidated Fund.

(3) Notwithstanding the provisions of any other enactment, the Unit shall be exempt from the payment of any duties and taxes, in relation to its functions.

State rights in water

12. (1) Notwithstanding the provisions of any other enactment, the property in, and the right to, the use and flow of all water, at any time in the State, shall be for all purposes, vested in the State, except only in so far as private rights have been established under abstraction licenses and permits granted under this Act.

(2) The right to water may not be acquired by prescription.

Preparation of Master Plan

13. (1) Subject to the provisions of this section, the Director shall cause to be prepared by the Unit and submitted to the Commission for approval, a draft Master Plan on water resources for the State.

(2) The Commission shall not approve the draft Master Plan or any revision thereof pursuant to subsection (7) unless the Commission has advised the Minister in respect thereof.

(3) For the purpose of preparing the draft Master Plan, the Unit may—

- (a) collect from any source, data and information relating to water resources, and to water resources generally;
- (b) consult with and obtain data and information relating to water resources from such person or organization or from any agency or department of Government or local authority, as the Director thinks appropriate; and
- (c) undertake such studies and investigations and carry out such other activities as may be necessary or relevant to the preparation of the draft Master Plan.

(4) In preparing the draft Master Plan, the Director shall ensure that such steps as are necessary to co-ordinate the Master Plan with the plans of any department or agency of Government for national or regional economic and physical development and shall have regard to such plans relating to the development of water resources by non-state actors.

(5) The Director shall ensure that the draft Master Plan—

- (a) identifies objectives for the management of water resources, taking into account all relevant considerations, including the desirability of economic efficiency, the protection of health, safety and welfare of individuals, the protection or encouragement of economic activity and the protection of the environment and the enhancement of environmental values;
- (b) identifies, describes and lists in relation to the State—
 - (i) the occurrence, quantity, quality and availability of water;
 - (ii) the current uses of water; and
 - (iii) the activities which are dependent or affected by, or related to water and its uses;

- (c) identifies and describes the projected needs for water and recommends projects, programmes and other steps which, in view of such needs, should be undertaken in respect of the development of water resources and the control, abstraction and storage of water and the supply, distribution, drainage and disposal thereof;
- (d) having regard to the current and projected needs for water identified pursuant to paragraph (c) and the projects and programmes and other steps recommended thereunder, indicates the objectives in relation to water quality whether in respect of the State generally or in respect of regions thereof, and the programmes designed to achieve these objectives;
- (e) indicates and evaluates the ways in which all projects and programmes proposed in the draft Master Plan in respect of the current and projected use of water will achieve the objectives identified pursuant to paragraph (a).

(6) If the Commission is satisfied with the draft Master Plan, the Commission shall—

- (a) subject to subsection (7), and by notice published in the Gazette, declare the draft Master Plan to be the approved Master Plan and shall specify in such notice, the date on which the Master Plan takes effect;
- (b) cause the Master Plan to be made available to all departments and agencies of Government and to local authorities and any body which the Commission thinks may be affected by the Master Plan, in view of the nature of the activities in which the body is engaged; and
- (c) cause a notice to be published in at least one newspaper in weekly circulation in the State stating that the approved Master Plan is available to the general public for inspection at the Unit, on payment of the prescribed fee.

(7) The Chairman of the Commission shall ensure that a copy of the Master Plan is submitted to the Minister who shall, not later than three months, upon receipt of the Master Plan, cause the Master Plan to be tabled in Parliament and the Master Plan shall be subject to affirmative resolution.

(8) The Director shall cause to be prepared by the Unit and submitted to the Commission for approval, an annual revision of the whole or any part of the Master Plan, which is for the time being in effect pursuant to this section and for the purposes of such revision, the Director and the Commission shall have

the like functions as are exercisable under this section in relation to the draft Master Plan.

(9) The Minister shall, not later than six months upon receipt of the completed annual revision of the whole or any part of the approved Master Plan, cause a copy of that revision to be tabled in Parliament and the approved Master Plan shall be subject to affirmative resolution.

(10) A failure on the part of any person to observe any provision of the Master Plan, which is in operation, shall not by itself render the person liable to any proceedings; but in any matter before the Unit, any provision of the Master Plan which appears to the Unit to have been breached, shall be taken into account by the Unit in dealing with the matter.

(11) All ministries and departments of Government and statutory bodies shall take cognisance of the Master Plan in performing any function that may touch and concern the water resources, water supply or sewerage services.

PART III

WATER QUANTITY AND WATER QUALITY MANAGEMENT

Gathering grounds

14. (1) All areas of land on which water is collected for the purposes of water works and which are declared to be a protected forest or protected reserve pursuant to the provisions of the Forest, Soil and Water Conservation Act, are hereby declared to be gathering grounds under this Act.

(2) The Minister, acting on the advice of the Director shall, as soon as practicable after the appointed day, publish a list specifying the boundaries of all areas of land declared to be gathering grounds in accordance with this section.

(3) Where the Minister, acting on the advice of the Director, is satisfied that an additional gathering ground is required to extend or augment the water supply, the Minister shall cause the limits or areas thereof to be marked out and shall, subject to subsection (5), by order published in the Gazette and in at least one newspaper in circulation in the State, specify the boundaries of the area and declare the area to be a gathering ground.

(4) Where an Order is published pursuant to subsection (3), the land declared to be a gathering ground shall be acquired by the Government and compensation shall be payable to the owner of the land in accordance with the provisions of the Land Acquisition Act Chapter 159.

(5) No area of land within the limits of a gathering ground shall be granted, devised or otherwise disposed of except in accordance with such conditions as may be laid down by the Minister.

(6) All areas which were declared to be protected areas under the National Water and Sewerage Authority Act, shall continue to be protected areas under the management of the Unit, subject to the provisions of this Act.

(7) All areas which were declared as catchment areas under the National Water and Sewerage Authority Act shall continue to be catchment areas under the management of the Unit, subject to the provisions of this Act.

Protection of defined area around gathering grounds

15. (1) The Minister, acting on the advice of the Director, Chief Forestry Officer and the Sanitary Authority, may, by Order published in the *Gazette* and for the purpose of protecting the quantity or quality of water in any gathering ground—

- (a) define an area of land around a gathering ground, which is in need of protection;
- (b) prohibit or regulate the doing, within that area of land, of any act specified in the Order; and
- (c) construct mechanisms to restrict access to that area of land.

(2) Where an Order is published in the *Gazette* pursuant to subsection (1), the Government shall pay adequate compensation to the owner of the land for the loss of the use prohibited or regulated.

(3) Notwithstanding subsection (1) (b), the acts prohibited or regulated by the Order made by the Minister pursuant to this section shall include—

- (a) the placing, depositing or discharging, within the area, of material of any kind that is likely to impair the quality, or significantly reduce the quantity, of the water or the storage capacity of the gathering ground; or
- (b) other acts or omissions as may be considered likely to impair the quality, or significantly reduce the quantity, of the water or the storage capacity of the gathering ground.

(4) A person who contravenes an Order made pursuant to this section commits an offence and is liable on summary conviction to a fine not exceeding three thousand dollars or to imprisonment for a term not exceeding two years.

Environmental flow level or volume of water resource

16. (1) The Director shall cause to be specified, where it is appropriate so to do, and after consultation with the Commission and the appropriate authority, the environmental flow or volume of any water resource, taking into consideration any relevant use of water.

(2) Where a specification is made under subsection (1), it shall set out—

- (a) the control points at which the flow, level or volume of the water is to be measured;
- (b) the method of measurement which is to be used at each control point;
- (c) the flow, level or volume which is to be the environmental flow, level or volume at each control point; or, where appropriate, the acceptable flow, level or volume at each control point for different areas, times and periods.

(3) The Unit shall provide—

- (a) at the request of any person, such information relating to the flow, level or volume of any water resource;
- (b) reasonable facilities for the inspection by any person of any records which document the flow, level or volume of any water resource; and
- (c) for the making of copies of, or extracts from, any records relating thereto, upon payment of the prescribed fee.

Reserve

17. (1) Subject to subsections (2) and (3), the Director shall, after consultation with the Commission, by notice published in the *Gazette* and in a newspaper in weekly circulation in the State, specify the reserve for all or part of a water resource.

(2) Before determining and specifying a reserve under subsection (1), the Director shall—

- (a) publish a notice in the *Gazette* and in a newspaper in weekly circulation in the State—
 - (i) setting out the proposed reserve;
 - (ii) inviting written comments to be submitted, on the proposed reserve and specifying an address to which and a date before

which comments are to be submitted, which date may not be earlier than thirty days after publication of the notice; and

- (b) consider all comments received within the date specified in paragraph (a) (ii).

(3) Every person shall observe the Reserve as specified under this section when exercising any function under this Act.

Ambient standards, water resource quality and monitoring and pollution control

18. The Unit shall, in collaboration with the appropriate authority—

- (a) recommend to the Bureau of Standards, ambient water quality standards and ensure that the standards are maintained; and
- (b) monitor the water resource quality and prevent and control the pollution of water resources.

Declaration of water management area

19. (1) The Minister, acting on the advice of the Unit may, by notice published in the *Gazette*, declare an area as a water management area for the purpose of protecting any water resource, watershed, wetland, environment or ecosystem at risk of depletion, contamination, extinction or disturbance from any source, including aquatic and terrestrial weeds, and such notice shall include—

- (a) a description of the purposes for which the area is so defined;
- (b) the geographic boundaries of the area; and
- (c) the limitations and prohibitions applicable within the area.

(2) The Minister shall not declare any area as a water management area without giving the owner of any land within the proposed water management area, the opportunity to make representations regarding the need for the water management area, the proposed boundaries of the area or the land use, limitations and prohibitions proposed for the area.

(3) The boundaries of any water management area shall be determined in a manner which takes competing uses of the area concerned into consideration.

(4) If the declaration of a water management area results in or requires the acquisition of land, such acquisition, including any compensation, shall be conducted in accordance with the Land Acquisition Act.

Effect of declaration of water management area

20. (1) A person shall not undertake or cause to be undertaken, any activity that impairs or conflicts with the purposes for which a water management area is declared under section 19.

(2) Without prejudice to the generality of subsection (1), the Minister may prescribe limitations to be observed within a water management area, which shall include, among others, a prohibition or limitation—

- (a) on the abstraction of water;
- (b) on the erection of any structures; or
- (c) on the discharge of waste.

(3) If a limitation under subsection (2) (a) or (c) affects an abstraction licence issued under this Act, the limitation shall, to the extent possible, be assessed and distributed proportionately among all affected abstraction licensees.

Amendment of declaration of water management area and withdrawal of declaration

21. The Minister may, acting on the advice of the Unit and by notice published in the *Gazette*—

- (a) amend the geographic boundaries of a water management area, or any prohibition or limitation applicable to the area, if circumstances in respect of the area change or so require; or
- (b) withdraw a declaration of a water management area, if the circumstances under which the declaration was made no longer exist.

Pollution of water resources

22. (1) A person who discharges or disposes of—

- (a) any organic or inorganic matter, including water containing such matter into a water resource, whether directly or indirectly or through drainage or seepage, so as to cause pollution of the water resource; or
- (b) any effluent or waste water, which has been produced by, or results from, the use of water for any purpose, into a water resource, whether directly or indirectly or through drainage or seepage;

commits an offence and is liable on summary conviction to a fine not exceeding three thousand dollars or to imprisonment for a term not exceeding two years.

(2) It shall be a defence to a charge under subsection (1) where the person so charged provides evidence to show that the person exercised due care and took all reasonable steps necessary to prevent the discharge or disposal.

(3) In addition to any penalty imposed under subsection (1), the court may order a person convicted to—

- (a) take such remedial action, as the Court may consider necessary;
- (b) reimburse the Unit for any remedial action taken by the Unit; and
- (c) pay compensation for any damage caused.

Steps to control or prevent water pollution

23. (1) Where the Unit, after consultation with the appropriate authority, is satisfied that the activities of any person may lead or give rise to, the pollution of a water resource, the Director may, by notice in writing, order the person to take such measures, within a specified period as may be directed in the circumstances, including all or any of the following—

- (a) ascertain whether the water polluted is potable or not;
- (b) the installation of devices to test and monitor the quality and quantity of gases, liquids or solids in any water, effluent or wastewater;
- (c) the sinking of boreholes to test and monitor the quality and quantity of groundwater;
- (d) the provision of facilities for the taking of samples by the Unit;
- (e) the testing or monitoring of any water, effluent or wastewater and the submission to the Unit, of the results of such testing and monitoring;
- (f) the taking of reasonable measures for the control or prevention of pollution;
- (g) the construction or installation of waterworks or devices for the control or prevention of pollution; or
- (h) the preparation and submission to the Unit of a report providing information concerning the person's existing or proposed activities.

(2) Subject to subsection (3), a person who without reasonable excuse, fails to comply with an Order made under subsection (1) commits an offence and is liable

on summary conviction to a fine not exceeding three thousand dollars or to a term of imprisonment not exceeding two years.

(3) In addition to the penalty imposed under subsection (2), the court may order the person concerned to—

- (a) take any remedial action, as the Court may consider necessary;
- (b) reimburse the Unit for any remedial action taken by the Unit; and
- (c) pay compensation for any damage caused.

(4) A person who is aggrieved by a requirement to take any measures under subsection (1) may appeal to the Commission within thirty days of the directive of the Unit.

Water-related emergencies

24. (1) Where the Commission acting on the advice of the Unit, is satisfied that—

- (a) the flow of water or the level of water in any water resource in an area has fallen or is likely to fall below the normal level of the water resource as prescribed;
- (b) the flow of water or the level of water in any water storage works in an area has fallen or is likely to fall below the level specified in an abstraction licence;
- (c) the abstraction of water from any borehole in an area is likely to diminish unduly the groundwater in the area or adversely affect the flow of any water in any water resource; or
- (d) certain circumstances, such as an exceptional shortage of rain, or contamination of a water resource, have brought about a shortage of water in an area;

the Commission shall forthwith, by Order published in the *Gazette* and one newspaper of weekly circulation in the State and by any other media, declare a water-related emergency and direct the Unit to take any action specified under subsection (2).

(2) Pursuant to subsection (1) the action which the Commission may direct the Director to take include—

- (a) permitting the taking of water from any other source specified in the Order;

- (b) prohibiting or limiting the use of water for any purpose specified in the Order;
- (c) prohibiting or limiting the taking by any person of water from a source specified in the Order if, the Commission is satisfied that the taking of water from that source depletes or otherwise affects the supplies available to the public;
- (d) prohibiting any activity which may cause the contamination of the water; or
- (e) any other matter that appears to the Commission, acting on the advice of the Director, to be expedient to meet the water-related emergency.

(3) An Order made under subsection (1) shall be revoked by the Commission by Order published in the *Gazette* and in at least one newspaper in weekly circulation in the State and by any other media, as soon as practicable after the deficiency or threatened deficiency is rectified or removed.

(4) A person who contravenes a provision of an Order made pursuant to subsection (2) (b), (c) or (d) commits an offence and is liable on summary conviction to a fine not exceeding three thousand dollars or to imprisonment for a term not exceeding two years.

PART IV ABSTRACTION OF WATER

Private use of water

25. (1) Notwithstanding anything to the contrary in any existing enactment, the abstraction and use of water in the State and the construction of any works for such abstraction and use, shall be governed by the provisions of this Act, and accordingly, nothing in any existing enactment shall be construed as derogating from any provision made by, or pursuant to, the provisions of this Act.

(2) Subject to sections 24 and 43, the owner of any land and the family and employees of the owner, shall be entitled to abstract and use any water within the boundary of that land for domestic use; provided that such abstraction or use does not compromise the quality or quantity of the water supply.

(3) The rights under subsection (2) shall not extend to the intentional blocking of access to water by any person.

Requirement for abstraction licence

26. (1) Subject to subsection 25 (2), a person shall not—

- (a) abstract and use water; or
- (b) construct or alter or cause to be constructed or altered, any works for the abstraction and use of water,

except under and in accordance with a valid abstraction licence granted under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not exceeding three thousand dollars or to imprisonment for a term not exceeding not exceeding two years.

(3) An abstraction licence granted pursuant to this Part shall not have the effect of dispensing with the necessity of obtaining any other permission in relation to the abstraction works, where such permission is required under any law in force in the State.

Abstraction licence as of right

27. A person who has been abstracting water for a continuous period of twenty-four months prior to the appointed day shall, subject to section 25, be entitled, on application made to the Unit in accordance with section 28, within six months of the appointed day, to the grant of an abstraction licence for a period which expires one year after the appointed day.

Application for abstraction licence

28. (1) A person who wishes to abstract water for use other than the use to which section 25 (2) applies, shall make an application to the Minister, through the Unit for an abstraction licence, in the prescribed form, accompanied by the prescribed application fee.

(2) An application under subsection (1) shall include—

- (a) the name of the applicant;
- (b) the water resource from which the proposed abstraction will be made;
- (c) the proposed location of the abstraction;
- (d) the type and location of the proposed beneficial use;
- (e) the name of the owner upon which the proposed beneficial use will be made;
- (f) the proposed rate and volume of the abstraction;

- (g) the proposed timing of the abstraction;
- (h) a description of any waterworks necessary to accomplish the proposed abstraction and put the abstracted water to beneficial use and a proposed schedule for the completion of the waterworks;
- (i) a description of the proposed treatment that will be given to the abstracted water, including any chemicals proposed to be applied to the water;
- (j) a description of the volume, rate and chemical composition of any waste or return flow resulting from application of the abstracted water to beneficial use and a description of the location where any waste or return flow is expected to enter a water resource;
- (k) an environmental impact analysis of the proposed abstraction of water on the environment and the existing water users and water resources; and
- (l) any additional information, which the Unit may require.

(3) Where an abstraction licence is required pursuant to this section and the use of the water to which that abstraction licence relates will or is likely to result in the discharge of effluents, then, an application shall also be made to the relevant authority for a licence to discharge such effluents and a copy of the approval for the discharge of effluents, from the relevant authority, shall accompany the application for the abstraction licence.

Recommendation by Unit

29. (1) Subject to subsections (2) and (3) and section 27, where an application is submitted to the Unit pursuant to section 28, the Unit shall consider the following criteria, before making a recommendation for the grant or refusal of an abstraction licence to the Minister—

- (a) whether the proposed abstraction and use of water are consistent—
 - (i) with the objective of the Act as set out in section 3 and the fundamental principles governing the management of water resources as set out in section 5;
 - (ii) with the Master Plan and any other order or declaration made under this Act, which may be applicable;
 - (iii) pursuant to section 17, the reserve specified for the area for which the abstraction licence is sought;

- (b) the impact of the proposed abstraction upon existing water users, water resources and the water reserved or allocated for environmental use;
- (c) the safe yield of the aquifer from which the abstraction is proposed, if the application is for the abstraction of groundwater;
- (d) the conformity of the proposed use with efficient water management practices;
- (e) the likely effect of the proposed abstraction on the quality of any water resource, and on the aquatic ecosystems dependent on the water resource;
- (f) the need to ensure the efficient and beneficial use of water resources; and
- (g) any additional criteria, which may be prescribed.

(2) The Unit may, within fourteen days of the receipt of an application, request additional information from the applicant for the purpose of considering the application.

(3) Where the Unit makes a request for information pursuant to subsection (2), the applicant shall submit that information within fourteen days of the request or within a further period of time granted and specified in writing by the Unit.

(4) The Unit shall not unreasonably refuse to give a further time period pursuant to subsection (3).

(5) The Unit shall submit a recommendation for the grant or refusal of an abstraction licence to the Minister, within twenty-eight days of the application being made or information requested pursuant to subsection (2) being submitted, as the case may be.

Grant or refusal of abstraction licence

30. (1) In accordance with a recommendation made pursuant to section 29, the Minister shall grant or refuse an abstraction licence and shall, within fourteen days of the receipt of the recommendation, notify the applicant in writing, of the grant or the refusal and provide reasons in the case where the application is refused.

(2) Where the Minister grants or refuses an abstraction licence contrary to a recommendation made by the Unit, the Minister shall also give reasons, in writing, for such grant or refusal.

- (3) A person aggrieved by the decision of the Minister pursuant to subsection (1) shall have the right of appeal in accordance with section 54.

No recommendation or notice

31. (1) If no recommendation is made for the grant or refusal of an abstraction licence by the Unit to the Minister within the period specified in section 29(5), or if no notification is given by the Minister to the applicant within the fourteen day period specified in section 30, the applicant shall have the right to make a case before the Unit and the Unit shall hear the case following an application to the Unit by the applicant.

(2) The application for a hearing before the Unit shall be in the prescribed form.

(3) Where, after a hearing pursuant to subsection (2)—

- (a) the application is refused, or
- (b) the Unit fails to make a recommendation, or the Minister fails to give a notice within fourteen days of the hearing;

the applicant shall have the right to appeal in accordance with section 54.

Grant and form of abstraction licence

32. (1) An abstraction licence shall be granted on payment of the prescribed abstraction licence fee to the Unit and be in the prescribed form and shall specify—

- (a) the name of the person to whom the abstraction licence is granted;
- (b) the location of the abstraction and location of the use;
- (c) the water use or uses for which the abstraction licence is granted;
- (d) the conditions subject to which the abstraction licence is granted;
- (e) the frequency of review of the licence under section 37;
- (f) the duration of the abstraction licence;
- (g) the fact that the abstraction licence is subject to periodic review, suspension, amendment or revocation in accordance with the provisions of this Act; and
- (h) any other matter which may be prescribed.

(2) It shall be an implied term of every abstraction licence granted under this Act that the Minister may, by notice in writing addressed to the abstraction licensee, impose such restrictions as the Minister, acting on the advice of the Unit, deems necessary, where an order is made pursuant to section 24 declaring that any of the circumstances listed thereunder exists.

(3) Where in relation to the grant of an abstraction licence, any condition is imposed in relation to the construction of works, the fact that the Minister, acting on the advice of the Director, is satisfied that the works have been properly constructed shall not operate—

- (a) to imply a guarantee by the Government or the Minister that the works have been properly designed; or
- (b) to support or justify any claims against the Government or the Minister or an officer of the Unit, in connection with such works.

(4) The conditions of an abstraction licence may require that, on grant of the abstraction licence and at prescribed intervals thereafter, the abstraction licensee shall pay charges to the Unit for use of water in accordance with the abstraction licence.

(5) The charges shall be determined by reference to a schedule of charges published in the *Gazette*, from time to time, by the Unit, after approval by the Commission.

(6) The charges to determine pursuant to subsection (5) shall also be guided by public consultation with the relevant stakeholders.

Easement

33. (1) A person who—

- (a) is an applicant for an abstraction licence; and
- (b) requires an easement, in order to carry out abstraction works, shall satisfy the Director that the owner of the land over which the easement is required has agreed to the grant of the easement.

(2) An easement referred to under subsection (1) may only be constituted by written agreement between the abstraction licensee and the owner of the land over which the easement is required and shall contain a provision which states that the easement is not revocable by the person granting it without the approval of the Director.

(3) If the owner of the land does not agree to an easement, the applicant or the abstraction licensee, as the case may be, may apply to the Director, in the

prescribed manner, for an easement and shall serve notice of such application on the owner of the land.

(4) The Director may either dismiss the claim for an easement or grant the claim, with or without modification and subject to such conditions and to the payment of such compensation, as the Director may deem just.

(5) The Director shall notify the applicant and the owner of the land of the decision.

(6) The creation or discharge of an easement shall be recorded by the Registrar of Deeds and Lands.

(7) Until it is registered or recorded pursuant to subsection (6), an easement shall be binding only on the persons who are the original parties to the agreement.

Validity of abstraction licence

34. Subject to sections 27 and 37 an abstraction licence shall be valid for the period specified therein.

Breaches by abstraction licensee

35. Where an allegation of breach with respect to an abstraction licence is made by an aggrieved person to the Unit or where the Unit reasonably suspects an abstraction licensee of being in breach of its abstraction licence, the Unit shall conduct an investigation in accordance with section 10(6) and if the Unit finds that—

- (a) the aggrieved person's allegations or suspicions are substantiated, it shall so notify the abstraction licensee of its finding and, where appropriate, issue directions to the abstraction licensee—
 - (i) requesting the abstraction licensee to stop the breach and take remedial action and stipulating a time period within which such remedial action is to be completed; and
 - (ii) requesting the abstraction licensee to compensate the Government or any person aggrieved for any foreseeable damages caused by the breach within a specific time period; or
- (b) the aggrieved person's claim is frivolous or vexatious or that its suspicions are incorrect, the Unit shall cease the investigation and the aggrieved person bringing the action shall be liable for any costs incurred.

Renewal of abstraction licence

36. An application for renewal of an abstraction licence granted under this Part shall be made in the prescribed manner at least three months prior to its expiry.

Review, amendment, suspension and revocation of abstraction licence

37. (1) Subject to subsection (3), the Minister, acting on the advice of the Unit, may, at any time during the period of duration of an abstraction licence, and pursuant to such review, amend the terms and conditions of the abstraction licence, if it is in the public interest to do so.

(2) Subject to subsection (3), the Minister, acting on the advice of the Unit, may suspend an abstraction licence if—

- (a) the abstraction licensee has failed to pay any fees or charges required to be paid by the Act or Regulations made hereunder;
- (b) the abstraction licensee is in breach of—
 - (i) any provision of this Act or Regulations made hereunder; or
 - (ii) any direction given pursuant to section 35 or a term or condition subject to which the abstraction licence is granted; or
- (c) the abstraction licensee notifies the Unit, in writing that the abstraction licensee intends to cease operations for which an abstraction licensed has been granted, for the period stated in the notice.

(3) Before making a recommendation to the Minister to suspend an abstraction licence under subsection (2) (a) or (b), the Unit shall notify the abstraction licensee, in writing, of the proposed suspension—

- (a) stating the reasons for suspension; and
- (b) requiring the abstraction licensee, in the case of a breach that is capable of being remedied, to remedy the breach within the time specified in the Notice; and
- (c) the right of appeal conferred by section 54.

(4) Where a notice of suspension in relation to a breach is given pursuant to subsection (3), and the breach can be remedied, the suspension shall not take effect until the expiration of the period specified in the notice under subsection (3)(b).

(5) An abstraction licensee who is served a notice under subsection (3), shall, after remedying the breach which gave rise to the suspension, notify the Unit in writing that the breach has been remedied.

(6) The Unit shall, upon receipt of a notice referred to in subsection (3), cause an inspection to be carried out, within fifteen days of the receipt of the notice and, if, upon inspection, the Unit is satisfied that the breach has been remedied, the Unit shall withdraw the notice of suspension.

(7) The Unit may revoke an abstraction licence if it is satisfied that—

- (a) an abstraction licensee has ceased to comply with the provisions of this Act or any Regulations made hereunder;
- (b) the application for the abstraction licence contained false or misleading information in a material particular;
- (c) the abstraction licensee has failed to remedy the breach which gave rise to the suspension of the abstraction licence within the time specified in a notice under subsection (3) (b);
- (d) the abstraction licensee has failed to commence operations within the period specified in the notice under subsection (2) (c); or
- (e) any fee or charge payable by the abstraction licensee remains unpaid for a period of sixty days after the suspension of the licence.

(8) Where an abstraction licence is revoked pursuant to this section, the abstraction licensee shall return the abstraction licence to the Unit.

(9) An abstraction licensee who fails to return an abstraction licence that has been revoked under this section, to the Unit, commits an offence and is liable on summary conviction to a fine not exceeding three thousand dollars or to imprisonment for a term not exceeding two years.

Offence of not complying with direction of Unit for abstraction licence

38. An abstraction licensee who fails to comply with a direction of the Unit given pursuant to an abstraction licence commits an offence and is liable on summary conviction to a fine not exceeding three thousand dollars or to imprisonment for a term of not exceeding two years.

Waste of underground water from wells unlawful

39. (1) Subject to subsection (2), a person shall not cause or allow any underground water to run waste from any well or other work, except for the purpose of testing the extent or quality of the supply or cleaning, sterilizing, examining, or repairing the well or other work.

(2) Where underground water interferes or threatens to interfere with the execution or operation of any underground works, it shall not be unlawful under this subsection to cause or allow the water to run to waste so far as may be necessary to enable the works to be executed or operated, if no other method of disposing of the water is reasonably practicable.

Special power of Unit in relation to aquifers

40. The Unit shall have the power—

- (a) to determine the safe yield of any aquifer for the purpose of guiding determinations concerning the abstraction and use of water from the aquifer;
- (b) to impose special requirements and restrictions with respect to wells, for the purpose of preventing waste or contamination of water, or loss of artesian pressure; and
- (c) to carry out programmes for the recharge of aquifers; and for the purpose of paragraph (a), “safe yield” means the amount of water, which may be abstracted from an aquifer, in keeping with the reserve specified under section 17, in that regard.

PART V

WATER AND WASTE CONTROL AREAS AND PERMITS

Water Control Area

41. (1) Where on the advice of the Unit, the Commission is satisfied that the regulating of water use or classes of use of water in any area is necessary in the public interest, the Commission shall, by order published in the *Gazette* and at least one newspaper in weekly circulation in the State, declare the area as a water control area.

(2) In exercising its authority under subsection (1), the Commission shall have regard to the following factors—

- (a) the ecology, hydrology and hydrogeology of the area;
- (b) the established and projected water demands in the area; and
- (c) the current and projected availability of water in the area.

(3) An order under subsection (1) shall specify the boundaries of the water control area and the abstraction, use or classes of use required to be regulated.

Waste Control Area

42. (1) Where on the advice of the Unit, the Commission is satisfied that it is necessary to regulate the discharging of wastes or classes of wastes into or on—

- (a) any land;
- (b) any sewer or drain;
- (c) any bore; or
- (d) any water,

to protect the water resources from pollution or reduction in water quality, the Commission shall by order published in the *Gazette*, declare the area to be a Waste Control Area.

(2) In exercising its authority under subsection (1), the Commission shall have regard to the factors listed in section 41(2), and to the necessity of protecting the health of the public and the requirements of established and intended uses of the water resources, including protection of the fauna and flora of watercourses, in addition to the desirability of protecting and enhancing the environment.

(3) An Order under subsection (1) shall specify the boundaries of the Waste Control Area and the waste or classes of waste required to be regulated.

Requirement for permit

43. (1) A person shall not use water in a water control area or discharge waste or a class of waste in a waste control area, except in accordance with a permit for the purpose granted to that person by the Minister, acting on the recommendation of the Unit.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding three thousand dollars or to imprisonment for a term not exceeding two years.

(3) A permit granted under this section shall not have the effect of dispensing with the necessity of obtaining any other permission for the discharge of waste, where such permission is required under any law in force in the State.

Permit as of right

44. A person who has been using water in a water control area for a continuous period of at least 24 months immediately prior to the appointed day, shall, subject to section 47, be entitled, on application made to the Unit in accordance with section 45, within 6 months of the appointed day, the grant of a permit for a period which expires one year after the appointed day.

Application for permit

45. (1) Subject to subsection (2), a person may in the prescribed form apply to the Minister, through the Unit, for a permit to—

- (a) abstract or use water in a water control area; or
- (b) discharge waste or a class of waste in a waste control area.

(2) A person shall submit the application made under subsection (1) to the Unit together with the prescribed application fee.

Recommendation by Unit for permit

46. (1) Subject to subsections (2), (3) and (4) and to section 44, where an application is submitted to the Unit under section 45, the Unit shall, having regard to the following factors, make a recommendation to the Minister for the grant or refusal of a permit to that applicant and shall give reasons for the recommendation of refusal having regard to—

- (a) the ecology, hydrology and hydrogeology of the area;
- (b) the established and projected water demands in the area; and
- (c) the current and projected availability of water in the area.

(2) The Unit may, within 14 days of the receipt of an application, request additional information from the applicant for the purpose of considering an application.

(3) Where the Unit makes a request for information under subsection (2), the applicant shall submit that information within 14 days of the request or within a further period of time granted and specified in writing by the Unit.

(4) The Unit shall not refuse to grant a further time period under subsection (3) unless it is reasonable to do so.

(5) The Unit shall submit a recommendation made under subsection (1) to the Minister within 28 days of the application being made or information requested under subsection (3) being submitted, as the case may be.

Grant or refusal of permit

47. (1) In accordance with a recommendation made under section 46, the Minister may grant or refuse a permit and shall, within 14 days of the receipt of the recommendation, notify the applicant in writing, of the grant or the refusal and shall give the reasons in writing for a refusal.

(2) Where the Minister grants or refuses a permit contrary to a recommendation made by the Unit, the Minister shall also give reasons, in writing, for such grant or refusal.

(3) A person aggrieved by the decision of the Minister under subsection (1) shall have the right of appeal in accordance with section 54.

No recommendation or notice for permit

48. (1) If no recommendation is made by the Unit within the period specified in section 46 (5), or if no notification is given by the Minister to the applicant within the 14-day period specified in section 46 (3), the applicant shall have the right to make a case before the Unit and the Unit shall hear the case, following an application made by the applicant.

(2) The application for a hearing before the Unit shall be in the prescribed form.

(3) Where, after a hearing under subsection (1)—

- (a) the application is refused, or the Unit fails to make a recommendation; or
- (b) the Minister fails to give notice within 14 days of the hearing; the applicant shall have the right to appeal under section 54.

Grant and form of permit

49. A permit shall be granted on payment of the prescribed fee to the Unit and be in the prescribed form and shall—

- (a) clearly establish the scope of the permit;
- (b) include the terms and conditions, in addition to those provided for in this Act, under which the permit is granted, based on the situation regarding the relevant water resources.

Validity of permit

50. Subject to sections 44 and 52, a permit shall be valid for the period specified therein.

Breaches by permit holder

51. Where an allegation of breach of the terms of a permit is made to the Unit by an aggrieved person, or where the Unit reasonably suspects that a permit holder is in breach of the permit holder's permit, the Unit shall conduct an investigation in accordance with section 10(6) and if the Unit finds that—

- (a) the aggrieved person's allegations or suspicions are substantiated, it shall so notify the permit holder of its findings and, where appropriate, issue directions to the permit holder including a direction to stop the breach;
- (b) the aggrieved person's allegations are frivolous or vexatious or the suspicions are incorrect, the Unit shall cease its investigations and the person bringing the action shall be liable for the cost incurred.

Suspension or revocation of permit

52. Where a permit holder fails to comply with a direction given by the Unit under section 51, the Unit shall advise the Minister to suspend or revoke the permit in accordance with the terms of the permit.

Offence of not complying with directions of Unit for permit

53. A permit holder who fails to comply with a direction given by the Unit under section 51 commits an offence and is liable on summary conviction to a fine not exceeding three thousand dollars or to imprisonment for a term of not exceeding two years.

PART VI APPEAL AND MISCELLANEOUS PROVISIONS

Appeal

54. (1) There is hereby established, for the purposes of this Act an Appeals Tribunal for hearing and deciding appeals on matters referred to the Appeals Tribunal pursuant to the provisions of this Act.

(2) Subject to the provisions of the section, any aggrieved person, as defined in subsection (5) may appeal to the Appeals Tribunal, within such time and in such manner as may be prescribed, against a decision of the Unit or Minister in relation to a licence or permit granted under this Act.

(3) Before determining the appeal, the Appeals Tribunal shall afford the aggrieved person an opportunity to be heard and to be represented by an attorney-at-law or any other person.

(4) The Appeals Tribunal may—

- (a) dismiss the appeal and confirm the decision;
- (b) allow the appeal and set aside the decision;
- (c) vary the decision; or

- (d) allow the appeal and direct that the matter, the subject of the appeal, be determined anew by the Unit or the Minister.
- (5) For the purposes of this section an aggrieved person is a person—
- (a) who objects to a decision of the Unit or Minister pursuant to this Act with respect to his or her application for a licence or permit or to any term or condition subject to which the licence or permit, as the case may be, is granted;
 - (b) who, not being a person described in paragraph (a), is a person who objects to a decision of the Minister or the Authority on the grounds that it is prejudicial to a right or interest held by the person; or
 - (c) who is the holder of a licence or permit under this Act and objects to a decision of the Unit or the Minister relating to or affecting such licence or permit.
- (6) The constitution and procedure of the Appeals Tribunal shall be prescribed in Regulations made hereunder.

Regulations

55. (1) The Minister, acting on the advice of the Unit, may make Regulations generally for the better carrying out of the objectives of this Act and, without prejudice to the generality of the foregoing, may make Regulations in relation to—

- (a) the form and manner of making an application for any licence or permit required under this Act, the maps, documents or information which shall accompany such application;
- (b) the provisions relating to any licence or permit which may be granted under this Act, including the form thereof, particulars which shall be specified therein and the terms and conditions subject to which such licence or permit may be granted;
- (c) the grant, suspension and revocation of a licence or permit granted under this Act;
- (d) the establishment and maintenance of a register or registers in respect of licences and permits granted under this Act;
- (e) the registration and recording of easements constituted in accordance with this Act;
- (f) the control of water quality;

- (g) the time within which and the manner in which an appeal to the Appeals Tribunal Act against a decision of the Unit or the Minister;
 - (h) the fees and charges payable in respect of any licence or permit granted under this Act or the rendering of any service or the doing of anything required to be rendered or done under this Act and the manner of payment thereof;
 - (i) compensation where such compensation is payable under this Act; and
 - (j) any other matter required by this Act to be prescribed.
- (2) Any regulations made pursuant to subsection (1) shall be subject to affirmative resolution.

Act binds the Crown

56. This Act binds the Crown.

Passed by the House of Representatives this 28th day of January, 2025.



.....
Clerk to the House of Representatives

Passed by the Senate this day of , 2025.

.....
Clerk to the Senate