

# **THE WATER RESOURCES BILL**

(No. VIII of 2024)

## **Explanatory Memorandum**

The main object of this Bill is to –

- (a) provide a legal framework for the use, management, control, protection, conservation, and sustainable development of water resources in Mauritius;
- (b) safeguard the immediate and long-term public interest for an equitable access to water;
- (c) ensure water security and resilience;
- (d) establish a Water Resources Commission;
- (e) promote the efficient use of water;
- (f) make provision for, and in connection with, matters incidental and connected thereto.

**G. P. LESJONGARD**

*Minister of Energy and Public Utilities*

28 June 2024

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## A BILL

**To provide a legal framework for the use, management, control,  
protection, conservation, and sustainable development of  
water resources in Mauritius**

ENACTED by the Parliament of Mauritius, as follows –

### PART I – PRELIMINARY

#### 1. Short title

This Act may be cited as the Water Resources Act 2024.

#### 2. Interpretation

(1) In this Act –

“adverse effects of climate change” has the same meaning as in the Climate Change Act 2020;

“alternative water sources” means sustainable sources of water, other than surface water or underground water;

“aquifer” means an underground geological formation which naturally retains or enables the passage of water;

“authorised officer” means an officer designated under section 10(3)(a);

“borehole” means a hole that is drilled into the ground by the use of machinery;

“brackish water” means water that has more salinity than freshwater, but not as much as seawater;

“buffer zone” means an area of land, declared as such under section 33, in which the activities are regulated for the purpose of protecting water resources;

“bulk raw water” means untreated water, from any source, supplied to a water provider or a major water user;

“canal” means a manmade open channel, the purpose of which is to convey water;

“catchment” means an area of land in which rainfall naturally drains into a common river or discharge system;

“Central Water Authority” means the Central Water Authority established under the Central Water Authority Act;

“Commission” means the Water Resources Commission established under section 9;

“Committee” means the Water Resources Technical Committee established under section 16;

“dam” means any artificial barrier that has the ability to impound water, waste water, or any liquid-borne material, for the purpose of storage, control or diversion;

“desalination” means the reduction or removal of salinity from brackish water or seawater;

“Director” means the Director of the Water Resources Commission;

“domestic purpose” means water used for the purpose of cooking, drinking, washing or for any other purpose related to domestic life;

“domestic supply” means water supplied from the water works and used for drinking, washing or cooking or for any other purpose of domestic life;

“effluent” means waste water, whether treated, partially or untreated, produced by or discharged from agricultural, industrial, commercial or domestic premises or waste water works;

“enforcement notice” means a notice issued under section 60;

“existing water right” means a right to use or take surface water which –

(a) existed and belonged to a person before the commencement of this Act; and

(b) is established and registered under Part V;

“hydrological area” means an area of land so defined to enable the study or management of surface water and underground water;

“integrated water resources management” means a process which promotes the coordinated development and management of water and related resources for the purpose of maximising the resultant economic and social welfare in an equitable manner without compromising the sustainability of vital ecosystems;

“lake” means a natural body of standing open water;

“local authority” has the same meaning as in the Local Government Act;

“Minister” means the Minister to whom responsibility for the subject of water resources is assigned;

“Ministry” means the Ministry responsible for the subject of water resources;

“permit holder” means the holder of a water use permit issued under this Act;

“permit” means a permit issued under this Act;

“prohibition notice” means a notice issued under section 61;

“public dam” means a dam which is under the responsibility of the Commission;

“public department” means a Ministry, Government department, statutory corporation or public authority established under any enactment;

“remedial notice” means a notice issued under section 59;

“reserved use” means the designation of certain water resources which –

(a) may only be used for specified purposes; and

- (b) may not be allocated for a purpose other than those specified under section 25;

“reservoir” means a large natural or artificial impoundment that –

- (a) is used for the storage of raw water;
- (b) is used as a source of water supply;

“restricted area” means an area of land or water declared as such under section 34;

“river” –

- (a) has the same meaning as in the Forests and Reserves Act; and
- (b) includes any naturally occurring open channel through which water flows;

“river basin” has the same meaning as a catchment;

“small planter” has the same meaning as in the Small Farmers Welfare Fund Act;

“spring” means underground water that naturally discharges above ground level and forms a stream or tributary of a river or stream;

“stop order” means an order issued under section 62;

“stream” has the same meaning as in the Forests and Reserves Act;

“supervising officer” means the supervising officer of the Ministry;

“surface water” means inland waters, excluding underground water;

“underground water”–

- (a) means any water which naturally occurs or is retained under the surface of the ground; and
- (b) includes –
  - (i) underground streams, subsurface reservoirs, and lakes; and

- (ii) any water held or flowing underground in a zone of saturation or in an aquifer;

“water use permit” means a permit to use water issued under this Act;

“water resources” –

- (a) means the combined resource of surface water, underground water of whatever nature; and
- (b) includes alternative water sources; but
- (c) does not include treated water supplied by the Central Water Authority for domestic, commercial and industrial purposes;

“water resources infrastructure” means the infrastructure vested in the Commission under this Act;

“water supply provider” means any person, business or organisation which supplies water to consumers or water users for whatever purpose;

“watercourse” means any naturally occurring or artificial system of channels, lakes, reservoirs, wetlands or impoundments including its banks and immediate surroundings through which water flows or resides.

### **3. Application of Act**

This Act shall –

- (a) bind the State;
- (b) apply –
  - (i) to the island of Mauritius;
  - (ii) subject to Part VII, to the Island of Rodrigues;
  - (iii) the other islands forming part of the State of Mauritius with such modification and adaptation, as the Minister may, by regulations, prescribe.

#### 4. **Objects of Act**

The objects of this Act are –

- (a) to promote the efficient use of water and to provide for an integrated management of water resources;
- (b) to safeguard the immediate and long-term public interest for an equitable access to water and its beneficial use for social and economic development;
- (c) to establish appropriate institutions, structures and regulatory processes to achieve effective control, protection, planning, management and development of water resources and the supply of bulk raw water to water supply providers;
- (d) in relation to water resources –
  - (i) to provide a legal framework for its use, management, control, conservation and protection for the social and economic well-being of the people of Mauritius;
  - (ii) to promote and coordinate its coherent, orderly and optimal use for the public benefit;
  - (iii) to promote its sustainable development; and
  - (iv) to develop preparedness, adaptation and resilience strategies to address the adverse effects of climate change;
- (e) to adopt the appropriate management approaches and technologies for the purpose of –
  - (i) reducing the waste or loss of water;
  - (ii) promoting water recycling, reuse, desalination and alternative water sources;
- (f) to encourage and require water users to contribute towards the protection of the quality of water and to carry out their activities by way of cooperation and a mutually shared understanding of the growing stress upon finite water resources.



## **5. *Domaine public***

(1) All surface water, including springs which are the sources of a river, tributary of a river or stream are part of the *domaine public* and are inalienable and imprescriptible.

(2) Subject to this Act, all underground water shall vest in the State.

## **6. Vesting of public property**

(1) Every publicly owned water resources infrastructure specified in the Schedule shall be vested in the Commission.

(2) Notwithstanding any other enactment, but subject to subsection (3), any State land which, immediately before the commencement of this Act was occupied or granted to the Central Water Authority in respect of the management of water resources and water resources infrastructure shall be vested in the Commission by the Government of Mauritius for the purpose of carrying out its functions under this Act.

(3) The infrastructure, other than the water resources infrastructure specified in the Schedule which, on the date of coming into operation of this section, belongs to or is run by the Central Water Authority and is used for –

- (a) the supply of treated water for domestic and commercial purposes as well as the supply of water for industrial purposes by the Central Water Authority throughout Mauritius;
- (b) the operation, maintenance and development required for –
  - (i) the supply of treated water; and
  - (ii) the taking, abstraction or use of underground water from boreholes pursuant to section 32,

shall continue to be vested in the Central Water Authority.

## **PART II – FRAMEWORK FOR WATER RESOURCES MANAGEMENT**

### **7. Powers and duties of Minister**

For the purposes of this Act, the Minister –

- (a) shall set national objectives and goals to ensure long-term water security and the sustainability of water resources;

- (b) shall cause to be developed and implemented strategies, policies, plans and priorities for the holistic and integrated management of water resources and the optimal and effective use of water resources;
- (c) shall, for the purpose of the management of water resources, ensure coordination and cooperation between public departments, local authorities, and such other institutions as may be necessary;
- (d) shall, for the purpose of implementing an integrated water resources management, promote the coordination and cooperation between the public and private stakeholders;
- (e) shall monitor and review the activities of public departments involved in the use, management, development, control, conservation and protection of water resources;
- (f) shall issue such recommendations and guidelines to public departments, statutory bodies and any other entity as may be necessary for the implementation of the objects of this Act;
- (g) may, on the recommendation of the Committee –
  - (i) order that uses of water be temporarily waived or varied, or require a water user to have recourse to alternative water sources, in order to ensure adequate supply of water to the public;
  - (ii) authorise water to be drawn from any river, stream, spring, canal or borehole in such quantity as may be required to meet the water requirements of the population for a specific period of time;
  - (iii) authorise water to be drawn from any river, stream, spring, canal or borehole by a person for a specific period of time until a water use permit is issued;
  - (iv) authorise the desalination of seawater or brackish water for a specific period of time until a water use permit is issued;
- (h) may, where the compulsory acquisition of any land is necessary in the public interest for the use, control, management, development or protection of water resources, initiate the procedure for the compulsory acquisition of the land which shall be carried out in accordance with the Land Acquisition Act;

- (i) may give such written directions of a general character to the Committee, the Central Water Authority, or any other water supply provider as are consistent with this Act;
- (j) shall take such other necessary actions and decisions as may be necessary to enable him to discharge his functions and duties under this Act.

## **8. Entitlement to use of water**

(1) For the purpose of determining the entitlement to use of water under this Act, priority shall be given to the need to ensure a sustainable and adequate supply of water for the needs of the population and for the purposes of public utility and safety in the national interest.

(2) Without prejudice to the generality of subsection (1), the following shall be taken into consideration for the purpose of determining the entitlement to the use of water –

- (a) the guiding principles for the management of water resources and sustainable development in the implementation and furtherance of the objects set out in section 4;
- (b) the current and future social and economic needs of the people of Mauritius;
- (c) the policies and guidelines made or issued under this Act for the purpose of managing the water resources;
- (d) the overall availability of water in the river, catchment, aquifer or hydrological area and the availability of alternative water sources;
- (e) the environmental needs and impacts of the intended water use in the river, catchment, aquifer or hydrological area or water sources from which the water originates and may be discharged into;
- (f) the need for the conservation and protection of water resources;
- (g) the reserved use of water in accordance with section 25;
- (h) the preparedness for the adverse effects of climate change;
- (i) the need for environmental protection of the ecosystem.

## **9. Commission**

(1) There shall be, for the purposes of this Act, a department within the Ministry to be known as the Water Resources Commission.

(2) The Commission shall be administered by a Director who shall –

- (a) be a public officer;
- (b) be appointed by the Public Service Commission;
- (c) be responsible for the control, operation and management of the day to day business of the Commission;
- (d) discharge his duties and functions and such other assignments that may be given to him by the Minister in accordance with this Act;
- (e) be responsible to the supervising officer for the proper discharge of his functions and the execution of his duties under this Act.

## **10. Staff of Commission**

(1) There shall be designated or appointed such public officers as may be necessary to assist the Commission in the discharge of its functions.

(2) Every officer of the Commission shall be under the administrative control of the Director.

(3) (a) The Director may designate an officer of the Commission to be an authorised officer.

(b) The Director and the authorised officer shall have such duties and powers as may be conferred under this Act.

(4) Subject to subsection (5), the Director may, in writing, authorise an officer of a local authority to exercise powers vested in an officer under this Act.

(5) No officer of a local authority shall be authorised to issue or make an order or notice under this Act.

## **11. Administration of water resources**

The Commission shall be responsible for all matters relating to the management and administration of water resources under this Act, including in particular –

- (a) all surface water, underground water and springs that are part of the *domaine public*;
- (b) the State land and water resources infrastructure vested in the Commission.

## **12. Functions of Commission**

The Commission shall, notwithstanding any other enactment but subject to this Act –

- (a) be responsible for the use, management, control and development of water resources for domestic, industrial and commercial purposes, energy production, irrigation and such other purposes as may be prescribed;
- (b) monitor, and enforce measures for the conservation, efficient use and protection of water resources and their related environment;
- (c) be responsible for the management of bulk raw water;
- (d) construct or cause to be constructed, dams, barrages, reservoirs, boreholes and related works, canals and such other works, structures and devices as may be necessary to provide bulk raw water supplies;
- (e) elaborate and implement plans for the development, mobilisation, sustainable use and management of water resources, which incorporate –
  - (i) the integrated water resources management;
  - (ii) the optimal utilisation of water resources;
  - (iii) the conservation of water and protection of water resources;
  - (iv) schemes for the development of river basins and inter-basin transfers;

- (v) schemes for the desalination of water and alternative water sources;
- (f) investigate, quantify and monitor water resources in order to maintain a national inventory and database of water resources and hydrological data and publish an annual water resources report accordingly;
- (g) maintain registers of the water use permits and existing water rights under this Act;
- (h) cause to be put in place, reviewed and updated the means, infrastructure, procedures, measures and methodology to determine the availability of water in each river basin, catchment, aquifer or hydrological area;
- (i) develop guidelines and procedures for the allocation and management of water resources during prolonged dry periods;
- (j) monitor the quality of surface and underground water and ensure its protection against the discharge of effluents or such other activity which may adversely impact upon the quality or safety of any water resource;
- (k) ensure the safety and maintenance of the water resources infrastructure vested in the Commission;
- (l) inspect, monitor and ensure that privately owned water resources infrastructure meets the appropriate safety and maintenance standards;
- (m) undertake the inspection, analysis, appraisal and coordination of civil works and projects relating to the conservation, protection, utilisation and development of water resources and shall, for that purpose –
  - (i) scrutinise designs and projects and assess the technical aspects, benefits and feasibility of the projects;
  - (ii) inspect and monitor any works undertaken in relation to water resource development or infrastructure;
- (n) provide and enforce safety requirements in respect of dams and take such measures as may be necessary to ensure their maintenance, security and integrity;

- (o) undertake or commission research and analysis as is required to fulfil the objects of this Act;
- (p) undertake such measurements and analyses as are required to –
  - (i) determine the availability of water resources with regard to water use permit applications;
  - (ii) initiate and pursue necessary action in case of non-compliance or breach of condition attached to water use permits;
- (q) maintain, monitor and manage restricted areas, buffer zones and such reserved use of water as may be prescribed pursuant to this Act; and
- (r) advise the Minister on any matter related to water resources and water resources management.

### **13. Duties of Commission**

The Commission shall, subject to this Act, perform such acts as are necessary or expedient to attain its objects and discharge its functions effectively and may, in particular –

- (a) enter into any agreement or make arrangements with any public department for the supply of bulk raw water and take such other measures as may be necessary for the implementation of the agreement;
- (b) enter into arrangements with Ministries, local authorities, educational and research institutions or any person for the purpose of performing its duties and discharging its functions;
- (c) interact with organisations which represent water users and the public for the purpose of improving the management, conservation and protection of water resources;
- (d) establish, maintain and operate –
  - (i) accredited laboratories;
  - (ii) gauging and monitoring stations;
- (e) establish hydrological areas and define river basins for the purpose of water resources management.

#### **14. Powers of Director**

- (1) The Director may –
  - (a) convene meetings and require the attendance of applicants, permit holders and such other persons or representatives as the Committee may deem necessary for the purpose of determining an application for a permit under this Act;
  - (b) monitor compliance with the requirements and conditions of permits issued under this Act;
  - (c) implement, monitor and manage the enforcement actions and measures set out in this Act;
  - (d) monitor that the exercise of existing water rights is carried out in compliance with this Act;
  - (e) collect such fees as may be prescribed.

(2) The Director may, in the discharge of his functions under this Act, delegate any of his powers, in writing, to an authorised officer.

#### **15. Registers**

- (1) The Director shall keep and maintain –
  - (a) a register of all applications for permits;
  - (b) a register containing particulars of permits and permit holders;
  - (c) a register of all boreholes drilled in Mauritius, including test drillings, failed drillings and dry boreholes;
  - (d) a register of all weirs, watercourse diversions, abstraction works and pumping stations and any discharge point of treated effluent in such manner as may be necessary to enable the measurement and management of the water resources;
  - (e) a register of all dams, including private dams;
  - (f) a register of existing water rights;



- (g) a register of State land and water resource infrastructure vested in the Commission; and
- (h) such other registers as may be prescribed.

(2) Every register kept under this section shall, during office hours, be available for consultation by the public.

## **16. Water Resources Technical Committee**

(1) There is established, for the purposes of this Act, a Water Resources Technical Committee.

(2) The Committee shall consist of the following members –

- (a) the supervising officer of the Ministry, as Chairperson;
- (b) the Director of the Commission;
- (c) a representative of the Ministry responsible for the subject of agriculture;
- (d) a representative of the Ministry responsible for the subject of blue economy;
- (e) a representative of the Ministry responsible for the subject of disaster risk management;
- (f) a representative of the Ministry responsible for the subject of environment;
- (g) a representative of the environmental health engineering unit of the Ministry responsible for the subject of health;
- (h) a representative of the Ministry responsible for the subject of housing;
- (i) a representative of the Ministry responsible for the subject of local authorities; and
- (j) a representative of the Technical Services of the Ministry.

(3) The Committee may co-opt not more than 3 persons with specialised qualifications and experience to assist the committee at any of its meetings and the co-opted member of the Committee –

(a) shall not have the right to vote at any meeting of the Committee; and

(b) be paid such fees or allowances as the Minister may determine.

(4) Every member, other than an ex officio member, shall hold office for such time and subject to such terms and conditions as the Minister may determine.

(5) Every member shall be paid such fees and allowances as the Minister may determine.

(6) (a) The Committee may set up such ad hoc or technical subcommittees as may be necessary to assist it in the discharge of its functions under this Act.

(b) An ad hoc and technical subcommittee set up under paragraph (a) shall consist of not less than 3 members of the Committee and such other persons as the Committee may co-opt.

## **17. Meetings of Committee**

(1) The Committee shall meet as often as is necessary and at such time and place as the Chairperson may determine.

(2) Where the Chairperson is absent from a meeting of the Committee, the representative of the Technical Services of the Ministry shall chair the meeting.

(3) At any meeting of the Committee, 6 members shall constitute a quorum.

(4) Every decision of the Committee shall be by resolution of the majority of members present and voting and, in the case of an equality of votes, the person presiding at the meeting shall, in addition to his deliberative vote, have a casting vote.

(5) A co-opted member shall have no right to vote.

(6) Subject to this section, the Committee may regulate its meetings in such manner as it may determine.

## **18. Disclosure of interest**

Any member of the Committee, who has an interest, direct or indirect, in a matter being considered by the Committee shall as soon as is practicable

disclose in writing to the Committee the nature of his interest and shall not participate or vote at a meeting of the Committee in respect of that matter.

## **19. Functions of Committee**

The Committee shall –

- (a) in respect of water use permits –
  - (i) examine every application for a water use permit in accordance with this Act and, submit its report and recommendations to the Minister;
  - (ii) comply with all procedures relating to the issue, variation, rejection, suspension or revocation of any water use permit as specified in this Act;
  - (iii) promote coordination and collaboration between water users, public departments, statutory bodies and the Commission for the purpose of ensuring an efficient use and the protection of water resources;
- (b) advise the Minister and the Commission on any matter, related to water resources and water resources management, that the Minister or Commission may refer to it;
- (c) make recommendations to the Minister on –
  - (i) the temporary variation of water use permits and on drawing water from rivers, stream, spring, canal, dams or borehole as may be required in the public interest for a stated period of time;
  - (ii) the temporary authorisation for water to be drawn from any river, stream, spring, canal or borehole for a stated period of time pending the determination of an application for the issue of water use permit;
  - (iii) the fees or tariffs payable in respect of the application or variation or issue of a water use permit or in respect of the volume of water granted by a permit;

## PART III – WATER USE PERMIT

### 20. Water use permit

(1) No person shall take, abstract, divert, obstruct or use any water, including surface water, underground water or springs, from the *domaine public* or from any water resources infrastructure unless he holds a water use permit.

(2) No person shall abstract or use seawater or brackish water for the purpose of desalination unless he holds a permit.

(3) No person shall –

(a) abstract, divert, obstruct or use any surface water from any river, canal, watercourse, dam or any underground water;

(b) construct or erect any works in or over any surface water, dam or underground water,

unless he holds a permit under this Act.

### 21. Application for water use permit

(1) Any person who intends to obtain a water use permit shall make an application to the Director in such form and manner as the Committee may determine.

(2) The applicant shall furnish to the Director such information, data, documents and plans as may be required.

(3) The Director may require an applicant to furnish –

(a) information in relation to –

(i) the application, including, but not limited to, particulars of any existing water use, intended or actual volume and use, location of use, means of water abstraction, its conveyance and its disposal after use;

(ii) water conservation and protection and for the measuring and recording of relevant aspects of water abstraction and discharge; and

(b) such information, plans or documents as the Committee may require for the purpose of examining the application.

(4) Where the applicant fails to provide the information required under this section within such time as the Committee may determine, the Committee may reject the application and inform the applicant accordingly in writing.

(5) The applicant shall notify the Director of any material change which may have occurred, whether before or after the issue of the permit, with regard to the information or documents submitted in connection with an application.

## **22. Processing of application**

(1) The Director shall, on receipt of an application, require the applicant to give public notice of the application in such form and manner as the Committee may determine.

(2) The notice under subsection (1) shall afford an adequate opportunity for members of the public or any interested party to comment on an application, or object to the grant of a permit.

(3) Any objection to the grant of the permit shall be filed within such time as may be specified in the notice.

(4) The Director shall refer the application, together with all relevant documents and information, to the Committee.

## **23. Examination of application**

(1) The Committee shall examine the application, including any comment or objection, in accordance with this Act before submitting its report and recommendations to the Minister.

(2) For the purpose of making a recommendation to the Minister, the Committee shall take into consideration –

- (a) the availability, intended volume and purpose of use of water;
- (b) the requirements laid down in section 8 for the purpose of determining the entitlement to the use of water;
- (c) whether any construction work, abstraction or discharge of surface or underground water, or the abstraction of brackish or seawater is in a location or area protected by law from such development or use;
- (d) whether the use of the water, discharge of water or any associated construction work would contravene, or is likely to contravene, this Act or any other enactment;

- (e) whether the use of the water or the consequences of its use would constitute a direct risk to the public health or the environment;
- (f) whether the applicant has the ability and capacity to comply with, and to fulfil all the requirements under, this Act;
- (g) such other matter as may be deemed relevant.

#### **24. Determination by Minister**

The Minister may, after considering the report and recommendations of the Committee –

- (a) grant an application and issue a water use permit on such terms and conditions as may be specified in the permit;
- (b) reject the application and inform the applicant, in writing of the reasons of the rejection within 15 days of the date of his decision.

#### **25. Reserved use of water**

(1) For the purposes of this Act, the Minister may, by notice published in the Gazette, declare a water resource to be a reserved use of water.

(2) The notice published in the Gazette shall set out the location of every reserved use of water and the volume of water reserved at that location.

(3) Subject to subsection (4), a reserved use of water shall only be used for the supply of water required for public consumption or for purposes of public utility and safety.

(4) Notwithstanding subsection (3), a reserved use of water may otherwise be used only to supply water for firefighting or to meet water demands for limited periods during times of emergency or severe water shortage.

- (5) No person shall, without lawful authority, –
  - (a) take, abstract, divert, obstruct or use water from a watercourse from which water flows into a reserved use of water;
  - (b) abstract water from, or interfere in any manner whatsoever with the conservation or protection of, underground water, a

catchment or aquifer in the immediate surrounding of a reserved use of water.

(6) The Director shall keep updated information of every reserved use of water and volume of water available therein to meet the demands for the supply of water for the purposes specified under this section.

## **26. Conditions of water use permit**

(1) A water use permit shall be valid for a period not exceeding 5 years and may be renewed for successive periods of 5 years or such other period as the Committee may determine.

(2) An application for the renewal of a water use permit shall be made to the Director in such form and manner as the Committee may determine.

(3) A water use permit shall be issued or renewed subject to such conditions, restrictions and limitations as may be necessary for the purpose of –

- (a) safeguarding a water source;
- (b) safeguarding the environment and the needs of other water users;
- (c) ensuring public safety;
- (d) ensuring that the permit holder adheres to the specified use and volume of water allocated in a permit;
- (e) requiring a permit holder to keep and make available such records as may be necessary;
- (f) requiring a permit holder to reduce his use of water during times of water shortage or emergency;
- (g) regulating the use of water in the public interest on an annual, seasonal or monthly basis;
- (h) ensuring payment for the taking, abstraction or use of water;
- (i) ensuring that the permit holder protects, conserves and uses water efficiently;
- (j) ensuring that the permit holder makes effective use of, and have recourse to, alternative water sources which may be available;

- (k) measuring and recording the volume of water abstraction and discharge.
- (4) A water use permit shall –
- (a) specify the period during which the permit shall be valid;
  - (b) specify the volume of water which may be used every year, season or month;
  - (c) specify the purpose for which the water shall be used;
  - (d) specify the means and method by which water shall be abstracted and conveyed;
  - (e) set out such other conditions as may be necessary in the public and environmental interest;
  - (f) specify the measures which may be applied during a dry season, or times of water shortage or emergency;
  - (g) set out such other conditions as may be necessary for the permit holder to fulfil his obligations;
  - (h) specify the fees or tariffs that are payable;
  - (i) contain guidelines for the implementation or operation of an activity, including in respect of any impact on water resources in a watercourse, catchment and hydrological area and in respect of the use of alternative water sources.

(5) For the purposes of this Act, the Minister may, on the recommendation of the Committee, vary any condition, restriction or limitation set out in the permit and inform the permit holder accordingly in writing.

## **27. Payment for water use permit**

- (1) The Minister may, on the recommendation of the Committee, determine –
- (a) the fees for application of permits;
  - (b) the fees for an application for the alteration of a water use permit.



- (c) the annual cost of a water use permit based upon the volume of water allocated under the permit.

(2) The Minister may, where the use of water is required in the public interest, waive any payment under this section.

## **28. Alterations to permits**

(1) Any permit holder who wishes to vary or modify a water use permit shall make an application, in writing, to the Director, stating the reasons for the proposed variation or modification.

(2) An application under subsection (1) shall be –

- (a) made in such form and manner as the Committee may determine;
- (b) subject to the procedures and conditions specified in sections 21 to 27.

## **29. Variation of permit in public interest**

(1) Nothing in this Part shall prevent the Minister from authorising the Director to limit, in whole or in part, the water allocated under any existing water use permit where the Minister has reasonable cause to believe that it is in the public interest during times of water shortage or emergency to vary or modify the terms and conditions of any entitlement to use of water to –

- (a) supply water for the needs of the public; and
- (b) ensure that a reserved use of water contains sufficient water for the purposes specified in section 25.

(2) Where there is any variation to a water use permit under subsection (1), the Minister shall, in writing, inform the permit holder accordingly.

(3) The Minister or the State shall not be liable to pay any compensation to a water use permit holder following the variation of any of the terms and conditions of a permit.

## **30. Obligations of permit holder**

(1) Every permit holder shall comply with such terms and conditions as may be specified in the permit and in this Act.

(2) A permit holder shall –

- (a) make use of the water allocated pursuant to him only for the purpose specified in the permit;
- (b) return any unused water to a watercourse in such manner as may be specified in the permit;
- (c) at all times, avoid wastage of water and conserve, protect and make an efficient use of the available water;
- (d) keep and make available to the Director such records as may be required;
- (e) effect prompt payment of fees or tariffs.

(3) A permit holder shall not sell or transfer, in full or in part, any water allocated to him pursuant to the permit.

(4) A permit holder shall inform the Director of any change in the circumstances which may affect the conditions of his permit, including –

- (a) the sale or transfer of the land in respect of which water is taken or used;
- (b) any factor which may prevent or hinder compliance with a condition of the permit;
- (c) any change in the volume, or reduction in the amount of, water which is available; and
- (d) any reduction in the amount of water used or taken.

(5) A permit holder shall not –

- (a) dispose in a river, stream, watercourse or canal any object which may impede or cause to impede the flow of water in the river, stream, watercourse or canal;
- (b) carry out any activity or take any action which may cause any soil erosion;
- (c) alter the composition or adversely affect the quality of any surface or underground water by any means, process or activity;
- (d) carry out any cultivation or any fish or animal breeding in or within a river reserve or buffer zone.

(6) Any person who fails to comply with subsection (5) shall commit an offence.

### **31. Failure to comply with permit**

(1) Where a permit holder or person acting on his behalf fails to comply with any term, condition, obligation, limitation or restriction set out in a permit or in this Act, the Director may, with the approval of the Minister, suspend or cancel the permit.

(2) Any suspension or cancellation of a permit under subsection (1) shall be without prejudice to any other action which may be taken against the permit holder under this Act.

(3) Before any cancellation or suspension of a permit, the permit holder shall be afforded an adequate opportunity to make representations to the Director as to why the permit should not be suspended or cancelled.

### **32. Exemptions**

(1) The Commission shall be exempt from the requirement to obtain or hold a water use permit in respect of any enterprise or activity undertaken in the discharge of its functions and duties under this Act.

(2) The Minister may, in the public interest, exempt any person from the requirement to hold a permit under this Act.

(3) The Central Water Authority shall be exempt from the requirement to obtain or hold a water use permit in respect of water which is being abstracted, taken or used by the Central Water Authority on the commencement of this Part.

(4) Subject to subsection (5), the Central Water Authority shall be exempt from the requirement to hold or obtain a permit in respect of surface water, or underground water drawn from boreholes by the Central Water Authority in order to cater for the immediate supply of water for public purposes during times of acute water shortage or emergency.

(5) The Central Water Authority shall for the purposes of section 32(3) and (4) submit to the Commission –

- (a) the location together with a site plan of all the water sources from which water is being abstracted, used or taken by the Central Water Authority;
- (b) the volume of water which is being abstracted, used or taken by the Central Water Authority;

(c) such other particulars or information which is requested by the Commission.

(6) Any exemption, granted or obtained, under subsection (2), (3) or (4), shall be subject to such terms and conditions as may be specified in writing by the Minister.

## **PART IV – MANAGEMENT AND ADMINISTRATION OF WATER RESOURCES**

### **Sub-Part A – General**

#### **33. Buffer zone**

(1) The Minister shall, by a notice published in the Gazette, declare such buffer zones as may be necessary to protect any water resource and its immediate surrounding.

(2) The notice specified in subsection (1) shall delimit the coordinates of each buffer zone.

(3) No person shall, within a buffer zone, carry out or cause to be carried out –

- (a) the removal of trees, unless authorised in writing by the Director and by any public department from which an authorisation is required by law;
- (b) the destruction or damage to any endemic or protected flora, or fauna, or its ecosystems;
- (c) the destruction or damage to any geological or physiographical features; and
- (d) any activity which may adversely impact upon the quality of the surface or underground water.

(5) No person shall carry out any work in a buffer zone except with the written authorisation of the Director and on such terms and conditions as the Director may determine.

(6) Any person who fails to comply with subsection (3) or (4) shall commit an offence.

### **34. Restricted areas**

(1) The Minister shall, by notice published in the Gazette, declare as a restricted area, the area that surrounds a dam, reservoir, lake or any such structures as are necessary for the management, protection and conservation of water resources and their related environment.

(2) The notice specified in subsection (1) shall delimit the coordinates of every restricted area.

(3) (a) No person shall, without lawful authority, enter or remain in a restricted area.

(b) The Director may issue to a person a written authorisation to enter or remain in a restricted area subject to such terms and conditions as may be specified therein.

(4) A police officer or an authorised officer may prohibit any unauthorised person from entering or remaining in a restricted area.

(5) Any person who fails to comply with subsection (3) or (4) shall commit an offence.

### **35. Alternative water sources**

(1) The Commission shall promote and regulate the development and use of alternative sources of water, including desalinated water.

(2) No person shall desalinate seawater or brackish water unless he holds a permit under this Act.

(3) (a) Any person who intends to desalinate seawater or brackish water shall make an application to the Director.

(b) The application under paragraph (a) shall be made in such form and manner as the Committee may determine.

(4) With respect to desalination –

(a) the abstracting of water for the purpose of desalination from any source including brackish water and seawater shall require a water use permit;

(b) any person who intends to become a water supply provider as a result of desalinating water shall first apply and obtain a permit which shall be in such form and manner and subject

to such conditions as may be determined and approved by the Minister upon the recommendation of the Committee.

- (5) The water use permit shall –
- (a) state the period during which it shall be valid;
  - (b) specify the maximum volume of water which may be abstracted and used;
  - (c) specify any special conditions required to secure the public and environmental interest;
  - (d) set out such other conditions as may be necessary for the permit holder to fulfil its obligations and ensure compliance with this Act and any other enactment;
  - (e) specify the fees that are payable.

### **Sub-Part B – Rivers and Canals**

#### **36. Rivers**

(1) Subject to Part V, no person shall stop, divert, alter the flow or interfere in any manner whatsoever with the course of a river, stream or watercourse.

(2) (a) Subject to paragraph (b), no person shall use water from any river, stream or watercourse for a purpose other than as specified in a water use permit issued to him, or as specified in this Act.

(b) Paragraph (a) shall not apply to any small planter.

(c) (i) Any small planter who intends to use water from any river, stream or watercourse shall notify the Director accordingly in such manner as the Director may determine.

(ii) For the purpose of subparagraph (i), the Director may, at any time, impose such conditions as he may determine.

(3) No person shall carry out any work in or along a river, stream or watercourse unless authorised in accordance with this Act.

(4) Any person may, without any machinery, installation, appliance or device, take water from any open part of a river, stream or watercourse for his personal and domestic use.

### **37. Canals**

(1) No person, including the owner of a private canal shall take, abstract, divert or use water from any water resource to be transferred into his canal unless he holds a water use permit issued under this Act.

(2) The Committee shall take into consideration the following before making a recommendation to the Minister, with regard to the issue of a permit –

- (a) the availability of adequate water from the original source or from additional sources to provide flows to the canal;
- (b) the capacity and condition of the canal to be able to convey existing or additional water efficiently and without wastage or loss of water;
- (c) any impact that it may have on the existing users of water from that canal and who are not the owners of the canal.

(3) (a) A permit issued under this section shall specify that the Commission may, for the purpose of avoiding undue wastage or loss of water, replace or cause to be replaced a canal by pipelines or any other suitable structures.

(b) The replacement under paragraph (a), of the canals by pipelines or any other suitable structures, shall be subject to the approval of the Minister.

(4) (a) A permit holder who intends to transfer water to which he is entitled along a private canal to another person shall make a written application to the Director, specifying the purpose, the volume and such other information as may be required.

(b) The Minister may, on the recommendation of the Committee, grant the application subject to such terms and conditions as the Committee may recommend.

(5) Where a canal is privately owned –

- (a) the owner shall ensure that the canal is maintained, kept in good working condition, and protected in accordance with this Act;
- (b) an owner of a portion of land through which a canal passes shall keep the canal free from any obstruction which may impede the flow of water in the canal; and

- (c) where there are different owners on each side of a canal, the owners shall jointly keep the canal in good working condition cleared and free from any obstruction.

(6) (a) No person shall, without the written authorisation of the Director, carry out any construction work or alteration of a canal.

(b) The authorisation under paragraph (a) shall be subject to such conditions as the Director may determine.

(7) (a) Any owner of a private canal who, for the purpose of its maintenance, intends to stop the flow of water in that canal shall make an application, in writing, to the Director.

(b) The application under paragraph (a) shall specify –

- (i) the reason why the flow of water should be stopped;
- (ii) the period during which the flow of water shall be stopped;
- (iii) the appropriate measures that he will take to continuously provide water during that period.

(8) The Director may cause the flow of water into any canal to be stopped where –

- (a) the users of water from a canal do not have the required water use permit;
- (b) the canal requires urgent maintenance, improvement or clearing;
- (c) there is undue waste or loss of water;
- (d) the canal represents a hazard or threat to the health or security of the public or to the security of any infrastructure.

### **38. Works related to rivers, canals and other watercourses**

(1) No person shall, without the prior written authorisation of the Director, construct, modify or make any change to any structure or use any equipment which may change the course or alter the flow or level of water in any stream, river, canal or watercourse.



(2) No person shall, without the prior written authorisation of the Director –

- (a) carry out any work to dredge, deepen, widen, alter the course of or stop the flow of any watercourse;
- (b) alter any catchment, hydrological area and underground water zone;
- (c) alter any pipe, basin, dam, or any work or structure connected with any water works, irrigation works or any other work for which the Commission is responsible.

(3) No person shall, without the written authorisation of the Director, demolish or remove any structure or significant part thereof that may affect a watercourse.

### **Sub-Part C – Dams**

#### **39. Private and other dams**

(1) Any person who owns or makes use of a dam shall require a water use permit and shall abide by the conditions of that permit in accordance with this Act.

(2) Any person who claims to be the owner of a dam shall –

- (a) produce to the Director the title establishing his ownership of the land;
- (b) register that dam with the Director in such manner as the Committee may determine.

(3) No person shall construct a dam, impoundment or erect any structure for storing water, unless that person applies for and obtains a permit and produces to the Director –

- (a) the title establishing his ownership of the land;
- (b) such other permits as may be required for that purpose;
- (c) such additional information, plans or documents as the Director may require.

(4) An application for a permit under this sub-part shall be made in such form and manner as the Committee may approve.

- (5) Any person who has obtained a permit to build a dam shall –
- (a) appoint a person having expertise in matters pertaining to dams to assess the safety of the design, its structural integrity, and safety aspects of any operations necessary during the construction of the dam;
  - (b) require the expert to monitor, investigate and report on every safety aspect of the dam and any associated activities during the construction period;
  - (c) require the expert to produce a safety report on completion of works in such form and manner as the Director may determine, and submit it to the Director; and
  - (d) forthwith inform the Director of any safety issues the expert may identify during the period of construction and completion of the dam.

(6) The Committee shall recommend the issue of a permit where it is satisfied that a dam may be operated and used safely.

(7) Where it appears to the Director that the construction or operation of a dam does not satisfy safety requirements or that the dam may not be used and operated safely, or where he is informed of a safety issue by the dam expert appointed under this section, the Director may –

- (a) require and give written instruction to the dam owner to take such actions as may be necessary to ensure the safe construction, operation and maintenance of the dam;
- (b) require the dam owners, operators and/or contractors engaged in the construction, maintenance or repair of a dam to take such immediate action as the Director may instruct, including lowering of water levels or emptying of the dam;
- (c) where there is any safety or security risks, forthwith suspend any permit or authorisation issued to the owners of a dam or in respect of a dam under construction, repair or maintenance; and
- (d) reinstate any permit issued to the owner of a dam which the Director has suspended when satisfied that it is safe to continue construction, repair, maintenance, operation or use of that dam.

#### **40. Responsibilities of dam owners**

(1) The drawings, specifications, design assumptions, calculations, documents, and test results, emergency preparedness plans and such other relevant documents shall, at all times, be available for inspection by the Director.

(2) The owner of a dam shall, at all times, maintain and keep copies of the drawings and emergency preparedness plan of the dam.

(3) The owner of a dam shall carry out regular checks and safety assessments to ensure that the dam is safe and will not cause prejudice to downstream occupants or users of the water therein.

(4) The owner of a dam shall –

(a) take such measures as may be necessary to ensure that the spill water from the dam is released and conveyed safely; and

(b) upgrade its dam structure and review its storage capacity and operating practices and ensure that it is not unsafe or detrimental to discharge water downstream.

(5) (a) The owner of a dam shall appoint such person having expertise in matters pertaining to dams to carry out an annual inspection of the dam, its structures, operating rules and emergency preparedness plans and shall provide an original copy of that report to the Director.

(b) Notwithstanding paragraph (a), the Director may request the owner of a dam to carry out the inspection at such interval as the Director may determine.

(6) (a) Where the owner of a private dam intends to undertake any repairs or alterations to the structure of a dam, he shall hire the services of a person having expertise in the field to certify that any proposed repairs or alterations to the structure of the dam can be carried out safely.

(b) Any application for any repair or alteration to the structure of a dam shall be accompanied by such certificate as the person having expertise in the field may issue under paragraph (a).

(7) The Director may require the owner of any dam to carry out an in-depth assessment of any such safety aspect regarding the construction, operation and use of the dam which is deemed to be necessary.

#### **41. Assessment of safety risk**

The Director may designate an officer or a person having expertise in the field to –

- (a) identify and detail such specific actions or repairs as may be required to address the risks that may arise from the operation and discharge of water from a dam with regard to –
  - (i) the structure of the dam;
  - (ii) the spillway of the dam; or
  - (iii) any other associated structure of the dam;
- (b) determine and inform the Director whether a dam represents any risk to the safety of the public.

#### **42. Dams declared a safety risk**

(1) For the purpose of determining whether a dam represents a risk to the safety of the public, the Director shall take into consideration –

- (a) the need to protect the public, property and the quality of water resources against the potential risks that the dam represents;
- (b) the extent of potential loss or harm involved;
- (c) the cost estimates of any proposed measures and whether they are realistically achievable;
- (d) the impact of any damage to the dam;
- (e) the manner in which the dam has been or is designed, constructed, altered, repaired, operated, inspected, maintained or abandoned;
- (f) the qualifications and expertise of the person by whom the dam is designed, constructed, altered, repaired, operated, inspected or maintained; and
- (g) the manner in which water is contained, stored or impounded in that dam.

(2) The Director shall inform the Minister of any dam which is considered to be a risk to the safety of the public.

(3) The Director may, with the approval of the Minister, by written notice served on the owner of a dam –

- (a) declare the dam to be a risk to the safety of the public; and
- (b) direct the owner of the dam to undertake, at the owner's cost, and within such period as may be specified in the notice, to make such repairs or alterations as may be necessary to protect the public, any property or the quality of water resource from a risk of failure of the dam.

#### **43. Protection of dams**

No person shall, without the written approval of the Director –

- (a) make structural modifications to a dam or alter the capacity of the dam or remove any structure from a dam;
- (b) tamper with any equipment at a dam;
- (c) remove water from a dam for any purpose other than for the purpose specified in the permit;
- (d) construct any structure within a distance of 200 metres from a dam or such other distance as the Director may direct;
- (e) carry out any rock quarrying activity, deep excavation or major modifications of the landform area located within 200 metres downstream of the dam and 100 metres upstream of the dam high water mark, or such distance as the Director may direct; and
- (f) carry out excavations in or change the course of the inflow channels to a dam.

### **Sub-Part D – Underground Water and Boreholes**

#### **44. Management and regulation of underground water**

(1) Any underground water shall be developed or used in accordance with this Act.

(2) No person shall take, abstract, divert or use any underground water unless he holds a permit under this Act.

(3) Any person who, before the commencement of this Act –

- (a) holds a licence under the Ground Water Act; or
- (b) was a party to a written agreement with the State for the abstraction, diversion, obstruction, measurement or use of any underground water,

shall, upon production of the licence or of the original written agreement, to the Director as the case may be, be deemed to be the holder of a water use permit under this Act.

#### **45. Drilling, development and use of boreholes**

(1) No person shall abstract, take or use water from any borehole unless he holds a water use permit under this Act.

(2) (a) No person shall drill or cause to be drilled any borehole without the written authorisation of the Director.

(b) Any person who intends to drill, or cause to be drilled, a borehole shall make an application to the Director.

(3) Any person who strikes or comes across underground water in the course of any digging, boring or drilling operations on any premises shall forthwith notify the Director of the existence of such water.

(4) (a) Any person who drills, or causes to be drilled, a borehole shall keep a record of every drill in such form and manner as the Director may determine.

(b) The record kept under paragraph (a) shall, during office hours, be available for inspection by the Director or such officer as he may authorise.

(5) Every person who drills and develops a borehole shall take such precautions as may be required to safeguard the quality of the underground water.

(6) Any person who by any act or process alters or adversely affects the quality of any underground water shall commit an offence.

#### **46. Special arrangements**

The Director may, in the public interest, or for the purpose of providing water for domestic purposes, enter into such agreement as may be necessary in respect of the use of water from any borehole where –

- (a) the borehole has not been used for a period of at least 3 consecutive years; and

- (b) no water use permit has been issued or 3 years before the commencement of this Sub-part.

#### **47. Emergency supply**

(1) Notwithstanding any other enactment, the Director may, for the purpose of ensuring adequate water supply for public purposes during periods of emergency or acute water shortage, use underground water or water from any borehole situated on any private land or premises by giving reasonable advance notice to the occupier or owner thereof.

(2) The owner or occupier shall upon a written notice of the Director pursuant to subsection (1), arrange and provide for the most appropriate access for the abstraction and conveyance of the water to ensure an immediate and uninterrupted supply of water for public purposes.

(3) Where a person fails to comply with this section, the Director may apply for a Judge's Order pursuant to section 65.

### **PART V – EXISTING WATER RIGHTS**

#### **48. Existing water rights**

Any person who, before the commencement of this Act, was pursuant to the Rivers and Canals Act or any other enactment –

- (a) entitled to take water from a river or stream –
  - (i) as the holder of a concession in accordance with his title of concession;
  - (ii) by virtue of a portion of water assigned to him as a borderer by order of the Supreme Court;
- (b) entitled to abstract or divert water from a water source into his canal;
- (c) entitled to the use of water from a spring in his ground or as a result of the passage of a spring, stream or run of water through his property,

shall, within 6 months of the commencement of this section, submit in such form and manner as the Director may determine, an application for the registration of his existing water right.

**49. Application for registration of existing water rights**

Any person who makes an application for the registration of an existing water right under this Part shall submit to the Director –

- (a) the title of concession or the order of the Supreme Court or such other title or document that establishes his right;
- (b) any documentary evidence that establishes the volume or quantity of water that is assigned to him;
- (c) the mode of abstraction of water and location from which it is abstracted;
- (d) any Court Order in respect of any construction work or device for the taking, use, abstraction or discharge of the water.

**50. Processing of application**

On receipt of an application for registration under this Part, the Director may –

- (a) require an applicant to furnish such additional information or document as he may require;
- (b) make such enquiry and consult such persons or authorities as is deemed necessary;
- (c) require the applicant to give public notice of the application in such form and manner as he may direct;
- (d) consider any objection or representation made by any interested party.

**51. Registration of existing water rights**

(1) The Director shall keep and maintain a register of existing water rights which –

- (a) have been established under this Part;
- (b) are the subject of an Order by the Supreme Court.

(2) The register shall contain the following information –

- (a) the name and other particulars of the person who holds the existing water right;



- (b) a site plan locating the place where the water is found and the manner in which the water should be abstracted;
- (c) the volume of water to which he is entitled;
- (d) the purpose for which he is entitled to use the water.

## **52. Application to Supreme Court**

- (1) Where the Director intends –
  - (a) to vary, amend or alter the flow of water from any river, stream, canal or spring;
  - (b) to vary, amend or alter the volume of water taken, abstracted or diverted from any river, stream, canal or spring;
  - (c) to carry out any work for the purpose of stopping, changing or directing the course of any river, stream or canal,

in a manner which may affect or impact upon an existing water right registered under this Part, the Director shall make an application for an Order from the Supreme Court authorising him to do so.

- (2) The Director may apply to the Supreme Court for the cancellation or suspension of any existing water right where the holder of the existing water right –
  - (a) fails to take, abstract or use water in accordance with the title or Court order which entitles him to use the water;
  - (b) fails to make an efficient use of water allocated to him;
  - (c) uses the water in such manner as may constitute a threat to the environment or other water users.

## **53. Public interest**

For the purpose of determining an application under section 52(1), the Supreme Court shall take into consideration –

- (a) the need for water to be removed for public consumption with due regard to existing and future interest for supplying towns, villages, public buildings or establishments and for such other purposes of public utility;
- (b) the need to maintain a sustainable environment;

- (c) the safety of the public and preparedness against the adverse effects of climate change;
- (d) the need for an adequate quantity of water to be always preserved in the river, stream, canal or spring to meet the natural wants of all water users and the public;
- (e) such works or construction as may be required if the order is granted.

#### **54. Constitutional redress**

(1) Where any person alleges that any provision of the Constitution has been contravened or is likely to be contravened in relation to him by the application or operation of this Act, in respect of an existing water right, or that his interest or right has been or is likely to be affected by such contravention, he may make an application to the Supreme Court for redress in accordance with this Part.

(2) An application for constitutional redress to the Supreme Court shall be made by way of a Plaint with Summons in accordance with the Supreme Court (Constitutional Relief) Rules 2000 or such other rules as the Chief Justice may make.

#### **55. Legality and compensation**

An application for constitutional redress under section 54 may include any claim for –

- (a) the determination of the interest or right of the person, the legality of any taking of possession or acquisition of the existing water right or interest;
- (b) the payment of adequate compensation.

#### **56. Determination and payment of compensation**

Where the Supreme Court determines that –

- (a) there has been a contravention of any provision of the Constitution in relation to the claimant; and
- (b) his interest in the existing water right has been injuriously affected by such contravention,

the Supreme Court shall –

- (i) determine the amount of any compensation to which the claimant is entitled for the injurious affectation to his constitutionally protected right which has been caused as a result of the contravention;
- (ii) make such order as is necessary for payment of the compensation;
- (iii) make such order as the Court may deem fit to impose in order to secure the constitutionally protected right or interest of the claimant in respect of an existing water right.

**57. No right to compensation**

Nothing in this Part shall be construed as giving rise to a right for compensation, in respect of any decision or action that arises from the application of this Act, other than a decision which may be the subject of an order for payment of compensation by the Supreme Court under this Part.

**58. Temporary order**

Notwithstanding any plaint or action that may be pending before the Supreme Court, the Judge in Chambers may, on an ex parte application by the Minister or Director, make such temporary or immediate order for the supply, control or protection of water resources as may be necessary and urgent in the public interest.

**PART VI – ENFORCEMENT**

**59. Remedial notice**

(1) Where the Director has reasonable ground to believe that an activity or omission by any person may, or is likely to contravene this Act, or any condition of a permit, he may issue and cause to be served a remedial notice on the permit holder or the person responsible for the activity or omission, as the case may be.

(2) A remedial notice shall –

- (a) specify the nature of the activity or omission which may constitute a contravention of the Act or permit;
- (b) set out the remedial measures to be undertaken by the person served with the notice;

- (c) specify the timeframe within which such measures should be implemented.

(3) For the purpose of determining the remedial measures required under subsection (2), the Director may hold, with the person, such consultations as may be necessary.

(4) The Director may amend or vary a remedial notice by causing to be served on the person on whom the remedial notice had been served, a variation notice specifying the amendment to the remedial notice.

(5) A variation notice issued under subsection (4) shall supersede the notice to which it refers to the extent of the amendment.

(6) The issue of a remedial notice or variation notice under this section shall be without prejudice to any other action which may be taken under this Act.

(7) Any person who fails to comply with a remedial notice or a variation notice shall commit an offence.

## **60. Enforcement notice**

(1) Where the Director has reasonable ground to believe that a person is contravening or is likely to contravene this Act or any condition of a permit, he may issue and cause the person to be served with an enforcement notice.

(2) An enforcement notice shall –

- (a) specify the nature of the contravention or breach of permit, as the case may be;
- (b) specify such measures as may be required to remedy or prevent the contravention or breach;
- (c) specify the timeframe within which such measures should be implemented.

(3) Any person who fails to comply with an enforcement notice shall commit an offence.

## **61. Prohibition notice**

(1) Where the Director has reasonable ground to believe that an enterprise or activity, or the manner in which the enterprise or activity is carried out –

- (a) may involve a serious or imminent risk, hindrance or obstruction to the management, conservation and protection of water resources;
- (b) may interfere with or damage any instrumentation, water resources infrastructure, structure or device used for the management of water resources or for the purpose of ensuring public safety;
- (c) may interfere or adversely affect the quality of water or the safety and maintenance of water resources or any related infrastructure,

the Director may issue and cause to be served a prohibition notice on the person who owns or manages the enterprise or is in control or in charge of the enterprise or activity.

(2) A prohibition notice –

- (a) shall specify the enterprise or any aspect of the enterprise or activity which is prohibited from operation or performance;
- (b) may specify any condition, including the taking of remedial measures, subject to which the enterprise or activity may be resumed.

(3) Any person who fails to comply with a prohibition notice shall commit an offence.

## **62. Stop order**

(1) Where a person undertakes or carries out any activity –

- (a) without such permit as may be required under this Act;
- (b) which represents a serious nuisance or a direct threat to the security or functioning of any instrumentation, water resources infrastructure, structure or device;
- (c) which causes or may be responsible for excessive wastage or loss of water;
- (d) which is likely to impact on the quality of water resources,

the Director may issue and cause to be served, on that person, or the person responsible, in charge or in control of such activity, a stop order prohibiting the activity.

(2) Any person who fails to comply with a stop order issued under subsection (1) shall commit an offence.

### **63. Revocation of notices**

- (1) Where the Director is satisfied that –
- (a) the remedial measures specified in a notice or order have been implemented; and
  - (b) there exists no further justification for maintaining the notice or order,

the Director may revoke a notice or order and shall accordingly inform the person upon whom the notice or order was served.

(2) The revocation of the notice or order shall be without prejudice to any action, including the prosecution for an offence, which may be taken under the Act.

### **64. Enforcement powers of Director and authorised officers**

(1) The Director or an authorised officer may, at any time and without warrant, enter and search any land or premises, other than a dwelling house where –

- (a) there is reasonable suspicion that a contravention of this Act has been, or is likely to be, committed;
- (b) there is, on the land or premises, an abusive use, wastage or loss of water;
- (c) there is, on the land or premises, any enterprise or activity, which is likely to impact on the quality of water resources.

(2) The Director or an authorised officer may, on entering any land or premises pursuant to subsection (1) –

- (a) bring with him any person or equipment which he may need for the purpose of exercising his duties and discharging his functions;
- (b) require the production of a water use permit and such records or documents as are required to be kept by the permit holder and take copies, photographs or extracts thereof;

- (c) inspect, monitor and assess any water resources, or activities which involve the use of water resources, including carrying out tests, taking measurements and samples, inspecting water infrastructures, equipment and machinery and determining the efficiency of water use;
- (d) take samples and photographs and require the person to furnish such information as may be required in respect of the undertaking or activity which is the subject of the inspection;
- (e) require any person suspected of having contravened this Act to produce satisfactory proof of his identity and address;
- (f) secure any article, object, equipment, plant or machinery that may be related to the contravention;
- (g) secure any document, file or record that may reasonably be required for the purpose of investigation or prevention of the contravention;
- (h) conduct such investigations or experiments as may be required to ascertain the availability and amount of underground water under such land and the possibility of exploiting such underground water.

(3) The Director or an authorised officer shall not enter a dwelling house unless he obtains the consent of the owner or occupier.

(4) The Director or an authorised officer shall, for the purpose of exercising his powers under this section, exhibit, on request from any person on the premises, such documentary evidence as may be required to establish his identity and authority.

## **65. Judge's order**

(1) Where a person fails to comply with any notice or order under this Act, the Judge may, on an ex parte application by the Director, make such interim and immediate order as may be urgent and necessary for the management, conservation or protection of any water resources or infrastructure or for the emergency supply of water for public purposes.

(2) Where any person –

- (a) refuses or prevents the Director or an authorised officer from entering or gaining access to a dwelling house or to any land or premises for the purpose of exercising his duties and powers under the Act; or
- (b) obstructs or hinders or prevents the Director or an authorised officer from exercising any of the duties and powers conferred upon him under the Act,

the Director or the authorised officer may apply to a Judge for an order authorising him to enter and inspect any dwelling house, land or premises or to exercise any of his duties or powers under this Act.

(3) The Judge may, on being satisfied that it is necessary for the Director or the authorised officer to exercise any of the duties or powers conferred upon him under the Act, issue an order authorising the Director or the authorised officer to enter and inspect any dwelling house, land or premises or to exercise his duties or powers without any hindrance, obstruction or impediment on the part of any person.

#### **66. Compliance monitoring**

(1) The Director may, in respect of any act or omission relating to the use of water resources, cause to be carried out, or arrange for, the monitoring of any use of water resources in order to ensure compliance with this Act.

(2) The Director may, by notice, require any person in charge or in control of the abstraction or use of water resources –

- (a) to carry out such monitoring as he may direct in relation to the use of the water resources; and
- (b) to keep and supply to him the records and results of the monitoring and any such other information as he may require.

#### **67. Obstruction of authorised officer**

Any person who obstructs, impedes, coerces or harasses the Director or an authorised officer in the exercise of any of his powers and duties under this Act shall commit an offence.

#### **68. Damage**

Any person who –



- (a) throws or dumps any waste, pollutant or any other substance in a river, stream or watercourse or carries out any activity which may adversely impact upon the quality of the water resources;
- (b) without lawful authority, constructs or carries out any works in relation to, or which affects, the use of water resources;
- (c) damages any instrumentation, water resources infrastructure, structure or device;
- (d) discharges polluted water underground or into any river, canal, stream, watercourse, lake, reservoir or lagoon,

shall commit an offence.

## **69. Offences**

Any person who –

- (a) fails to comply with any notice, order or direction issued under this Act;
- (b) fails to submit a report or document or to provide information required under this Act;
- (c) submits a report, document or any information which is false or misleading in any material particular;
- (d) fails to acknowledge or evades service of any notice, order or direction issued under this Act;
- (e) contravenes this Act or any regulations made under this Act,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 2 million rupees and to imprisonment for a term not exceeding 5 years.

## **70. Prosecution and jurisdiction**

- (1) Notwithstanding –
  - (a) section 114 of the Courts Act; and
  - (b) section 72 of the District and Intermediate Courts (Criminal Jurisdiction) Act,

a Magistrate shall have jurisdiction to try all offences under this Act and may impose any penalty and exercise all the ancillary powers provided under this Act.

(2) An authorised officer may swear an information before a District Magistrate and conduct prosecution on behalf of the Commission in respect of an offence under this Act or any regulations made under this Act.

(3) The following enactments shall not apply to a sentence imposed under this Act –

- (a) sections 152 and 153 of the Criminal Procedure Act;
- (b) the Probation of Offenders Act.

## **71. Powers of Court**

(1) The Court may, in addition to any penalty under this Act –

- (a) order the forfeiture of any object, machinery, plant, vehicle or article used in, or connected in any way, with the commission of an offence; and
- (b) order, or prohibit, the doing of any act or activity to stop a continuing contravention.

(2) Where the conviction relates to an enforcement notice, a prohibition notice, an order or a direction, the Court shall order compliance with the notice, order or direction within such period as the Court may determine.

(3) The Court shall, on being satisfied by the Director that the circumstances so warrant, make an order that an undertaking, enterprise or activity be stopped, ceased, closed or pulled down.

## **PART VII – APPLICATION OF ACT TO RODRIGUES**

### **72. Interpretation**

In this Part –

“Chief Commissioner” has the same meaning as in the Rodrigues Regional Assembly Act;

“Commission” means the Commission responsible for water resources established pursuant to the Rodrigues Regional Assembly Act.

### **73. Commission for Water Resources**

(1) The Commission shall be responsible for all matters relating to the management and administration of water resources in the Island of Rodrigues.

(2) The Commission shall, in respect of the Island of Rodrigues –

(a) develop such plans and put in place such mechanism and administrative measures as may be necessary for the purpose of the management, conservation and protection of water resources in accordance with this Act; and

(b) make recommendations to the Rodrigues Regional Assembly on matters relating to the sustainable development, management and protection of water resources, including monitoring, control and enforcement.

### **74. Vesting of publicly owned water resources property or infrastructure**

(1) Every publicly owned water resources infrastructure in the Island of Rodrigues shall be vested in the Rodrigues Regional Assembly.

(2) The Rodrigues Regional Assembly shall, in accordance with this Act, be solely responsible for the management and administration of water resources in the Island of Rodrigues, including –

(a) all surface water, underground water and springs that are part of the *domaine public*;

(b) alternative water sources;

(c) the publicly owned water resources infrastructure vested in the Rodrigues Regional Assembly.

(3) Nothing in this Part shall be construed as authorising or empowering the Commission or any other institution to alienate, dispose of, or create any charge, obligation or any right, any property or infrastructure vested in the Rodrigues Regional Assembly for the purposes of management and administration of water resources under this Act.

### **75. Regulations for Rodrigues**

(1) The Rodrigues Regional Assembly may make regulations generally for the purposes of this Act in respect of the Island of Rodrigues.

(2) Without prejudice to the generality of subsection (1), the Rodrigues Regional Assembly may, in particular, make regulations for –

- (a) the effective management of water resources, including during periods shortage of water;
- (b) an integrated approach to the management of water resources;
- (c) the efficient use of water;
- (d) the conservation, protection and sustainable use of water resources;
- (e) the alternative water sources, including desalination and re-use of treated effluent;
- (f) the enactment of such offences as may be necessary for the implementation of this Act;
- (g) the guidelines, procedures and policies to measure and monitor the water resources;
- (h) the issue of permits, licenses, clearances and authorisations for the purpose of administering effectively and sustainably the water resources;
- (i) the protection of restricted areas and buffer zones; and
- (j) the reserved use of water resources.

## **PART VIII – MISCELLANEOUS**

### **76. Protection from liability**

(1) No liability, civil or criminal, shall be incurred by any Minister, the Commission and its officers, the Committee and its members, the Director, any authorised officer or public officer in respect of any act done or omitted in good faith in the execution of their functions or duties under this Act.

(2) This section shall be in addition to, and not in derogation from, the Public Officers' Protection Act.

### **77. Confidentiality**

No person acting in the administration and execution of this Act or discharging any function or duty under this Act shall disclose, otherwise than in the performance of his duty, any information which he has obtained by virtue of this Act.

## **78. Regulations**

(1) The Minister may make regulations generally for the purposes of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may, in particular, make regulations for –

- (a) the effective management of water resources and their management during periods of shortage of water and emergency;
- (b) an integrated water resources management;
- (c) the efficient use of water;
- (d) the conservation of water and protection of water resources;
- (e) the sustainable use of water resources;
- (f) the alternative sources of water, including desalination and re-use of treated effluent;
- (g) the enactment of such offences as may be necessary for the implementation of this Act;
- (h) the guidelines, procedures and policies to measure and monitor the water resources;
- (i) the issue of permits for the purpose of effectively and sustainably managing the water resources;
- (j) the protection of restricted areas and buffer zones;
- (k) the reserved use of water resources;
- (l) the management, operation and maintenance of dams;
- (m) the water resources infrastructure;
- (n) providing measures to ensure the cleaning, clearing, maintenance, safety and security of watercourses;
- (o) the operation, management and development of water resources and water resources infrastructure in the islands,

other than the Island of Rodrigues, which form part of the State of Mauritius;

- (p) the levying and payment of fees;
- (q) the amendment of the Schedule.

## **79. Repeal**

(1) The Ground Water Act is repealed.

(2) Sections 6, 9, 10, 12, 13, 15, 24, 26(2), 29, 30, 37, 40 to 46, 80 to 83, 92 to 94 and 96 of the Rivers and Canals Act are repealed.

## **80. Consequential amendments**

(1) The Central Water Authority Act is amended –

(a) in section 2 –

- (i) be deleting the definitions “existing water right”, “ground water” and “new water right”;
- (ii) by deleting the definition of “water resources” and replacing it by the following definition –

“water resources” shall have the same meaning as in the Water Resources Act 2024.

(b) by repealing section 4 and replacing it by the following section –

### **4. Objects of Authority**

The Authority shall be responsible for –

- (a) the supply of treated water for domestic and commercial purposes as well as the supply of water for industrial purposes throughout Mauritius;
- (b) the operation, maintenance and development of the infrastructure required for –
  - (i) the supply of treated water; and

- (ii) the taking, abstraction or use of underground water from boreholes pursuant to section 32.
- (c) in section 20 –
  - (i) by repealing subsection (1) and replacing it by the following subsection –
    - (1) Subject to the Water Resources Act 2024, the Authority shall be the sole undertaker for the supply of treated water other than desalinated water for domestic, commercial and industrial purposes throughout Mauritius.
  - (ii) in subsection (2) –
    - (A) by repealing paragraphs (a) and (b) and replacing them by the following paragraphs –
      - (a) conduct studies and prepare plans and schemes for the treatment and distribution of water for domestic, commercial and industrial supply;
      - (b) transfer to the Commission upon the commencement of the Water Resources Act 2024, all documents that the Authority has in its custody with regard to the management of water resources;
    - (B) by inserting, after paragraph (b), the following new paragraphs –
      - (ba) assess, coordinate and advise, in respect of projects undertaken by any person, on aspects relating to the supply and distribution of water;

- (bb) promote water conservation;
- (bc) promote public awareness, education and understanding of good water savings practice;
- (C) by repealing paragraphs (c), (d), (e), (f), (h), (k), (l);
- (d) by repealing section 21 and replacing it by the following section –

### **21. Special powers of Authority**

For the purpose of section 20, and subject to the approval of the Minister, the Authority may –

- (a) construct or cause to be constructed service reservoirs, water supply networks, treatment plants and such other works, structures and devices as may be necessary for the treatment and distribution of potable water;
- (b) undertake measures for the prevention of malaria and other diseases;
- (c) enter upon or inspect any property at any time between sunrise and sunset;
- (d) establish, maintain and operate laboratories and conduct experiments and research in accordance with this Act;
- (e) enter into arrangements with appropriate Ministries, local authorities, educational and research institutions or any person for the purpose of discharging its duties;
- (f) determine and levy rates or fees for the supply of water for any purpose, including sewerage;
- (g) subject to the Water Resources Act 2024, discontinue the supply of water of any consumer that discharges polluted water underground or into any canal, river, stream, lake, reservoir or lagoon;



- (h) enter into water purchase agreement with such person as may be necessary for the purpose of using alternative water sources;
- (e) by repealing section 22;
- (f) by repealing section 46A;
- (g) in the Schedule, by deleting the following item –

Rivers and Canals Act

(2) The Central Electricity Board Act is amended, in section 5(1)(a)(vi) by deleting the words “Central Water Authority” and replacing them by the words “Water Resources Commission established under the Water Resources Act 2024”.

(3) The Irrigation Authority Act is amended –

- (a) in section 4, by deleting the words “Central Water Authority” wherever they appear and replacing them by the words “Water Resources Commission established under the Water Resources Act 2024”;
- (b) in section 6, in subsection (2), by repealing paragraph (e) and replacing it by the following new paragraph –
  - (e) a representative of the Ministry responsible for the subject of water resources;
- (c) in section 15 –
  - (i) in subsection (1), by deleting the words “Central Water Authority” and replacing them by the words “Water Resources Commission established under the Water Resources Act 2024”;
  - (ii) in subsection (2), by deleting the words “Central Water Authority” and replacing them by the words “Water Resources Commission”.

## **81. Transitional provisions**

(1) Subject to this section, any act done or any authorisation granted by the Ministry shall, on the commencement of this Act, be deemed to have been done or granted under this Act.

(2) Any licence, permit or authorisation which –

(a) has been granted under a repealed or amended legislation; or

(b) is deemed to have been granted under this Act,

shall lapse after 18 months following the commencement of this Act.

(3) Where this Act does not make provision for any transition or saving, the Minister may make such regulations as may be necessary for such transition or saving.

## **82. Commencement**

(1) This Act shall come into operation on a date to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different sections of this Act.

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**SCHEDULE**  
[Section 6(1)]

**PART I – DAMS, RESERVOIRS AND ASSOCIATED STRUCTURES**

1. Arnaud Dam
2. Bagatelle
3. Bois Clair
4. Cascade Diversion Dam
5. Dagotiere
6. La Ferme
7. La Nicoliere
8. La Pipe
9. Magenta
10. Mare aux Vacoas
11. Mare Longue
12. Midlands
13. Municipal Dyke
14. Piton du Milieu
15. Valetta

**PART II – FEEDER CANALS, OTHER CANALS AND PIPELINES**

1. Arnaud Diversion Channel
2. Feeder Canal from Cascade Diversion Dam to Bagatelle Dam
3. Headworks Pierrefonds Pipeline to Port Louis
4. La Fenetre Feeder Canal from Riviere du Rempart at Bassin to La Ferme Reservoir
5. La Ferme Canal

- 6.** La Nicoliere Feeder Canal
  - 7.** Magenta Canal
  - 8.** Parc-aux-Cerfs Canal
  - 9.** Pierrefonds Tunnel
  - 10.** Pradier Feeder to Arnaud Dam
  - 11.** River Chevrettes Diversion Canal
  - 12.** River Francoise Diversion Pipeline
  - 13.** River Papayes Diversion Canal to Riviere du Rempart
  - 14.** River Vacoas Diversion Canal
  - 15.** River Vacoas Syphon at Bois Clair
  - 16.** Tatamaka Feeder to Mare aux Vacoas Reservoir
  - 17.** The Trianon-Grosses Roches Feeder to La Ferme Reservoir
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