



# Public Health (Sewage and Wastewater Treatment and Disposal) Regulations 2014

His Excellency Tom Marsters

  
Queen's Representative

## Order in Executive Council

At Avarua, Rarotonga this 1<sup>st</sup> day of April, 2014

Present:

## His Excellency the Queen's Representative in Executive Council

Pursuant to sections 41 and 142 of the Public Health Act 2004 and section 39 of the Ministry of Health Act 2013, His Excellency the Queen's Representative, acting on the advice and with the consent of the Executive Council, makes the following regulations—

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**Regulations**

**1 Title**

These regulations are the Public Health (Sewage and Wastewater Treatment and Disposal) Regulations 2014.

**2 Commencement**

- (1) Subject to sub-regulations (2) and (3), these regulations come into force on the day after the date on which these regulations are made in accordance with Article 13 of the Constitution.

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- (2) These regulations take effect for Rarotonga and Aitutaki from the date of commencement.
- (3) No Board is required to be established for any other island under regulation 4(2) or (3), and no permit or certificate is required to be issued under these regulations for a sewage system on any other island, until approved standards are applied to the specific island to regulate any matter provided for in these regulations.

### 3 Interpretation

- (1) In these regulations, and in all standards, operating procedures and codes of practice made under section 16 of the Ministry of Health Act 2013 in support of these regulations, unless the context otherwise requires,—

**absorption** means the uptake of effluent into the soil matrix

**accredited laboratory** means a facility approved by the Secretary of Health by written notice, for the purpose of testing, examination and analysis under these regulations

**advanced treatment system** means a sewage system that treats sewage to a higher effluent standard than a Primary or Secondary Treatment System, and includes systems which incorporate the recirculation of sand filters, humus filtering systems and aerated activated sludge sewage systems

**aerobic** means conditions when ample free oxygen is available to maintain bacterial (aerobic bacteria) activity and produce non-odorous by-products

**alteration** in relation to a building, means work done which alters the sewage system at the building, or which involves a change to the building that requires modifications to or an expansion of the sewage system in accordance with the requirements of these regulations

**approved sanitary engineer** means a person registered by the Board as an approved sanitary engineer in accordance with regulation 7

**approved standards** means any standards, operating procedures or codes of practice approved under section 16 of the Ministry of Health Act 2013 for the purposes of these regulations

**the Association** means the Cook Islands Wastewater and Septic Disposal Association, or any body approved by the Minister as having taken the place of the Cook Islands Wastewater and Septic Disposal Association from time to time

**blackwater** means waste and sewage discharged from the human body either directly to a dry-vault or through a water closet (flush toilet) or urinal

**the Board** means the Sewage and Sanitation Board continued under regulation 4, and where relevant, includes the Island Environment Authority or committee of an Island Council authorised to administer these regulations as provided for in regulation 4(2) and (3)

**BOD<sub>5</sub>** means Biochemical Oxygen Demand (five day), being a measure of organic material degradable by aerobic bacteria at 20°C over 5 days

**Building Controller** means the person appointed to that office under the Building Control and Standards Act 1991, and includes any officer appointed for such functions under any law which replaces the Building Control and Standards Act 1991 from time to time

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**commercial facility** means—

- (a) any building, office or place in which 2 or more persons are engaged, or in which one or more persons are employed (directly or indirectly) in preparing or manufacturing goods for trade or sale, and includes any building, office or place in which work such that is ordinarily performed in a commercial facility is carried out, but does not include any building in the course of erection, nor any temporary workshop or shed for workmen engaged in the erection of a building;
- (b) hotels, resorts and any premises where guests are permitted to stay for one or more nights, which are not deemed by the Board to be ordinary residential premises;
- (c) a restaurant or other class of premises where food is sold to customers for consumption of the premises, and any tourism related facility;
- (d) any other type of premises which are prescribed as a commercial facility under any approved standard

**design area** means the area of any particular lot where the effluent land application area and its reserve area are to be located

**design flow** means the volume of sewage flow that a sewage system is designed to treat

**drain layer** means a person who undertakes or supervises work relating to the laying of drains, or the installation of any other component of a sewage system during its construction, installation, maintenance, servicing or repair

**effluent** means the liquid discharge from a septic tank or other treatment unit

**effluent land application area** means a designated area for the application and in-soil treatment of effluent

**Environment Officer** means an officer appointed under the Environment Act 2003, or any law which replaces that Act from time to time

**facility plan** means a plan that provides for the upgrade of a High Load System to prepare for an increase in sewage flow

**faecal coliforms** means the portion of the coliform bacteria group which is present in the intestinal tracts and faeces of humans and warm blooded animals

**greywater** means the domestic sewage from baths, spas, showers, basins, laundries and kitchen sinks and dishwashers and other sinks, but which is not blackwater

**High Load System** means any sewage system designed to serve a property with a high sewage flow, or which the Board determines to be a High Load System

**high sewage flow** means a sewage flow of 10,000 litres per day or more

**inspector and sanitary inspector** mean an officer or other person appointed under regulation 10 and section 18 of Ministry of Health Act 2013 for the purposes of these regulations

**installer** means a person who undertakes or supervises work relating to the installation of a sewage system during its construction, installation and commissioning

**Lagoon Protection Zone** comprises an area defined in approved standards where high standards of on site sewage treatment and disposal are required

**Land Application System** means the system used to apply effluent from a sewage system into or onto the soil for further in-soil treatment and absorption

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**Land Information Memorandum (Drainage)** means a document containing information about a sewage system that includes current and historical details such as the ownership of the system, type of system, date of installation, desludging record, capacity, design loading, plans of tanks, land application system and other fixtures, and seasonal high groundwater table depth in the effluent land application area, proximity to surface water, soil type at land application field, post-treatment disposal method and any maintenance contract pertaining to that system including results of tests and inspections conducted on that system

**low load system** means a sewage system designed to serve a property with a low sewage flow, which is not a High Load System or a moderate load system as determined in accordance with these regulations

**low sewage flow** means sewage flow of up to and including 2,000 litres per day

**manufacturer** means any person who manufactures a sewage system

**Minister** means the Minister of Health

**Ministry of Health** means the Ministry of Health as provided for by the Ministry of Health Act 2013

**Ministry responsible for Works** means the Ministry of Infrastructure Cook Islands, and includes any Ministry or agency which later has lawful responsibility for public works and infrastructure, and for the issuing of building permits and related approvals

**moderate load system** means a sewage system designed to serve a property with a moderate sewage flow, which is not a High Load System or Low Load System as determined in accordance with these regulations

**moderate sewage flow** means sewage flow of more than 2,000 litres per day but less than 10,000 litres per day

**monitored flow** means the measured flows associated with either or both the measuring by meter of all inward flows and outward flows from a Moderate Load System or High Load System

**mound system** means an on-site sewage treatment and land application system which—

- (a) is an above-ground mound construction commonly used where the natural water table is high or where further in-soil treatment is required to protect groundwater quality;
- (b) uses sand or some other suitable material, and where the mound dimensions depend on hydraulic loading and the infiltration characteristics of the soil profile on which the mound sits

**natural water** means rivers, streams, groundwater, or any lake or lagoon

**occupier** in respect of any premises, means the person who has actual or legal control of the property, and in the case of a commercial facility, includes any manager, foreman or other person acting in the general management or control of such building

**Operation and Maintenance Manual** means the Manual required for Secondary Treatment Systems and Advanced Treatment Systems under regulation 27

**owner** means the owner of a sewage system

**ponding** means the accumulation of sewage or effluent on a property creating a pond or pool

**primary treatment system** means a sewage system that functions mainly to separate solids, scum and liquid, and then disperse effluent to an effluent land application area

**registry** means any registry established and maintained by the Ministry for any purpose under these regulations

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**these regulations** includes, where applicable, any approved standards

**the repealed regulations** means the Public Health (Sewage) Regulations 2008

**reserve area** means the area of land set aside or identified as an alternative site for effluent treatment for times when the associated effluent land application area fails

**restricted drainage soil horizon** means a soil horizon that restricts drainage from the ground, and includes clay, hard pan, or bedrock

**sanitary professional and technician** means a person who designs, constructs, installs, maintains or services any sewage system, or any component part of a sewage system, and includes any class of such person prescribed for registration purposes by these regulations or the approved standards

**secondary treatment system** means a sewage system that uses aerobic biological processing and settling or filtering of sewage whereby effluent quality following secondary treatment meets prescribed standards

**septage** means the solid material that has settled out of liquid in a sewage system

**servicing agent** means a person who undertakes, performs or supervises any maintenance or servicing work on a sewage system

**sewage** means any wastewater, including all faecal matter, urine, household, institutional and commercial sewage that contains human waste (including blackwater and greywater), but does not include storm water

**sewage sludge** includes any solid, semi-solid, or liquid residue removed during the treatment of sewage (including solids removed during primary, secondary or advanced sewage treatment, portable toilet pumping, scum, septage, and sewage sludge products), but does not include grit, screenings or ash generated during incineration of sewage sludge

**sewage treatment** includes the treatment of all sewage, effluent, septage or sludge by whatever means

**sewage system** means any system designed to treat sewage and includes septic tanks, digester tanks, aeration tanks, and the associated in-soil treatment

**sewerage system** means any system designed, operated or managed to collect, treat and dispose of sewage

**soak pit** means any effluent pit that discharges effluent directly to the ground  
**storm water** means water which originates during precipitation, whether or not it soaks into the ground

**surface water** includes any lake, river, stream, lagoon, marsh, swamp or pond

**suspended solids** means any solids which are suspended in sewage, effluent, treated sewage, stormwater or surface water

**total nitrogen (TN)** means the total mass of elemental nitrogen in a sewage sample, and can exist in the form of ammonia, nitrite, nitrate and organic nitrogen

**total phosphorus (TP)** means the total mass of elemental phosphorus in a sewage sample, and can exist in the form of orthophosphate, polyphosphate and organic phosphate

**treatment unit** means any tank or component of a sewage system (apart from the effluent land application area) where sewage is treated

**treated sewage** means—

- (a) in the case of Low Sewage Flow - sewage that has undergone at least primary treatment:

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- (b) in the case of Medium or High Sewage Flow - sewage that has undergone secondary treatment or advanced treatment in accordance with these regulations **wastewater** means the spent or used water of residential, public or commercial origin.
- (2) For any purpose under these regulations, the Board has authority to determine, by written notice, any of the following matters—
  - (a) that any class of sewage system, or any specific sewage system, is to be regarded as a Primary Treatment System, a Secondary Treatment System or an Advanced Treatment System:
  - (b) that any class of sewage system, or any specific sewage system, is to be regarded as a High Load System, a Moderate Load System or a Low Load System.

**Part 1  
Administration**

**4 Continuation of the Sewage and Sanitation Board**

- (1) The Sewage and Sanitation Board is continued and comprises all of the following members—
  - (a) the Director of Public Health in the Ministry of Health (or a delegate of the Director), who is the Chairperson of the Board;
  - (b) the Director of the National Environment Service (or a delegate of the Director);
  - (c) the Building Controller in the Ministry responsible for Works (or a delegate of the Building Controller);
  - (d) a representative nominated by the Cook Islands Wastewater and Septic Disposal Association.
- (2) For other islands, apart from Rarotonga, the Island Environment Authority together with one or more health officers appointed by the Secretary of Health have authority to perform the functions of the Board for that island, other than the registration of approved designs, or of any class of professional, technician or manufacturer under these regulations or the approved standards.
- (3) For those islands without at Island Environment Authority, the a committee of the relevant Island Council, together with one or more health officers appointed by the Secretary of Health, have authority to perform the functions of the Board for that island, other than the registration of approved designs, or of any class of professional, technician or manufacturer under these regulations or the approved standards.
- (4) Nothing in this regulation prevents the Board from co-opting appropriately qualified persons to attend Board meetings and advise the Board on any technical or regulatory matter, or to sit on a sub-committee established for any purpose by the Board.
- (5) The seal of the Board must be kept in the custody of the Chairperson and is to be affixed only by the Chairperson, or any other officer duly authorised by the Board to seal documents on behalf of the Board.
- (6) The Board must prepare an annual report of its activities during the preceding 12 months, and this report must be made to the Minister.
- (7) The representative of the Association holds office for 1 year and is to be appointed by the Secretary of Health with the concurrence of the Board.

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- (8) The Secretary of Health has power to appoint a member with appropriate background and experience in the place of the representative of the Association if the Association ceases to exist at any time, and such a person is deemed to be “the representative of the Association” as referred to in these regulations.
- (9) The representative of the Association can resign by giving notice of such resignation to the Chairperson, and another member of the Association is to be nominated to fill the vacancy.
- (10) Despite sub-regulation (7), the representative of the Association who has been duly appointed to the Board continues to hold that office until a new appointment is made under that sub-regulation.
- (11) The representative of the Cook Islands Wastewater and Septic Disposal Association is entitled to payment of \$50 for each meeting of the Board that he or she attends, and for each sub-committee meeting of which he or she is a member, up to a maximum of \$500 in each calendar year.

**5 Functions and powers of the Board**

- (1) The Board has all of the following functions and powers—
  - (a) to periodically review these regulations and any approved standards, and to recommend to the Minister that they be modified or expanded:
  - (b) to take all necessary action to ensure that these regulations and all approved standards are applied and enforced:
  - (c) to determine and approve performance criteria for sewage systems:
  - (d) to administer and apply all systems of registration as provided for by these regulations and approved standards:
  - (e) to issue permits, certificates and other approvals in accordance with these regulations and the approved standards:
  - (f) to revoke or suspend any registration, permit, certificate or approval under these regulations or approved standards, on the grounds of any breach of these regulations or the approved standards:
  - (g) to direct that any inspection be undertaken to determine any matter relevant to the application of these regulations and the approved standards, and to require that a report be prepared and submitted to the Board:
  - (h) to authorise any other enforcement action for the purposes of these regulations and the approved standards:
  - (i) to require that any additional information be provided in relation to any application to the Board, or that any information or matter be verified in a manner determined by the Board:
  - (j) to perform any other functions and exercise all incidental powers as provided for by these regulations and approved standards, or as delegated to or vested in the Board in accordance with law.
- (2) The Board has authority to delegate any of its functions and powers to a sub-committee established for any purpose by the Board, or to an appropriate officer of the Ministry, subject to such conditions as the Board imposes, and any sub-committee or officer performing functions and powers under this regulation must provide a report of all action taken to the Board at its next meeting.



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- (3) The Board has authority to remove any sewage treatment unit design from the Register if the sewage treatment unit design does not meet the requirements of these regulations or approved standards, or if the manufacturer is found to have provided false and misleading information about the design, operations, capabilities or any other technical matter concerning the sewage treatment unit.
- (4) The Board has authority to remove any sanitary professional or technician from the register who has been found to practice in a manner that breaches these regulations or approved standards.
- (5) The Board has authority to remove from the register any septic tank manufacturer who has been found to manufacture septic tanks contrary to these regulations and approved standards.
- (6) Despite any other provision of these regulations, the approval of the construction and operation of any moderate load or high load sewage system on any island is the responsibility of the Board.
- (7) Despite any other provision of these regulations, the approval of the construction and operation of any secondary or advanced treatment system on any island is the responsibility of the Board.

### **6 Meetings and procedures of the Board**

- (1) The quorum of the Board is 3 members, and must include the representative of the Association, unless that position is vacant.
- (2) Meetings of the Board are to be called by the Chairperson, and the Board is to meet at least every 3 months.
- (3) The Ministry has the responsibility of providing all necessary administrative support to the Board, and for the recording of its decisions and the entry of relevant matters in the register.
- (4) At every meeting of the Board the Chairperson has a deliberative vote and, in the case of an equality of votes, the Chairperson also has a casting vote.
- (5) Subject to sub-regulation (4), every question before a meeting of the Board is to be determined by a majority of votes of the members present at the meeting.
- (6) Except as otherwise provided in these regulations, the Board has authority to regulate its procedures as it thinks fit.
- (7) The Board has authority to require that any applicant under these regulations, or any person who possesses or has access to any records or information relevant to any matter under consideration by the Board, to attend before the Board, and to produce any such record or information.
- (8) Nothing in this regulation prevents the Board (and any sub-committee of the Board) from determining and applying arrangements for resolutions and decisions to be obtained by circular resolution, or any other appropriate means.
- (9) The Board is required to report to the Minister or the Secretary of Health when required in writing to do so, and must comply with any request or direction given by the Minister or the Secretary that is consistent with these regulations and the approved standards.
- (10) Any member of the Board who has a material conflict of interest concerning a matter before the Board must declare that conflict and take no part in the Board's deliberations on that matter.

**7 Register of sanitary professionals and technicians**

- (1) The Board has responsibility for registering sanitary professionals and technicians, and for maintaining a register of sanitary professionals and technicians approved by the Board to be registered in accordance with these regulations and the approved standards.
- (2) Sanitary professionals and technicians who must be registered under these regulations include sewerage system designers, installers and servicing agents, and any other class of professional or technician prescribed by the approved standards, who meet the requirements of the approved standards.
- (3) The Board has authority to determine and apply any other requirements in relation to necessary qualifications, training, practical experience and professional background, if they are additional to a requirement under the approved standards.
- (4) The construction or installation of a sewage system must be under the supervision of a registered sanitary professional or technician who is authorised by the Board to supervise or undertake such construction or installation.
- (5) The Ministry has authority to require that registered professionals and technicians be licensed, and to issue annual licences upon payment of a licence fee set under section 33(2) of the Ministry of Health Act 2013.
- (6) The date for the issue of annual licences under sub-regulation (5) is to be determined by the Secretary of Health.
- (7) A person who designs, installs, constructs, maintains or services a sewage system without holding a valid licence issued under this regulation commits an offence against these regulations.

**8 Register of septic tank manufacturers**

The Board has responsibility for maintaining a register of accredited manufacturers of septic tanks who must manufacture septic tanks according to approved standards and registered designs.

**9 Approval and registration of sewage treatment unit designs**

- (1) The Board has responsibility for maintaining a register of approved designs of sewage treatment units that are authorised to be constructed, installed or operated in any place within the Cook Islands.
- (2) Applications for the approval of specific designs of sewage treatment units must be made to the Board.
- (3) Applications for the registration of sewage treatment unit designs must contain all information prescribed in the approved standards, and any additional information required by the Board.
- (4) The Board has authority to determine whether the proposed sewage treatment unit design is acceptable for registration.
- (5) The Board can request information regarding any sewage treatment unit design operating in the Cook Islands from the owner, designer, manufacturer, sales agent, installer or servicing agent, and that person must provide the required information to the Board.

**10 Sanitary inspectors**

- (1) For the purposes of these regulations, appointments of sanitary inspectors can be made under section 18 of the Ministry of Health Act 2013.

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- (2) All appointed sanitary inspectors have authority to exercise any powers under these regulations and all other powers given to inspectors under the Ministry of Health Act 2013.
- (3) All sanitary inspectors are accountable to the Board and the Ministry, whether or not they are employees of the Ministry, and must comply with any direction or instruction given to them by the Board or the Ministry which is consistent with these regulations and the approved standards.

### 11 Functions of sanitary inspectors

- (1) It is the responsibility of sanitary inspectors to do all of the following in accordance with these regulations—
  - (a) to inspect sewage systems and sewerage systems to ensure they are in compliance with these regulations and approved standards;
  - (b) to assess site conditions at the location of existing or proposed sewage systems;
  - (c) to prepare and submit reports regarding inspections and assessments undertaken and made.
- (2) A sanitary inspector has authority to call upon the assistance of an Environment Officer or the Building Controller to participate in and contribute to any inspection or assessment.

### 12 Registered land information

- (1) The Ministry has authority to maintain information relating to any sewage system inspected under these regulations on a database, and has authority to develop a Land Information Memorandum (Drainage) and any other record for any such system.
- (2) All persons who possess or have legal rights to any information relevant to a sewage system that is needed by the Ministry for the purposes of this regulation, must provide such information to the Ministry when requested by the Ministry or Board to do so.
- (3) The Ministry is deemed to own all rights to the information generated in accordance with this regulation, and has authority to permit access to be made to the information and to impose a charge for any access made to it.

## Part 2

### General requirements for sewage systems

#### 13 Responsibilities for sewage and other systems

- (1) The owner of a sewage system is responsible for all of the following—
  - (a) ensuring that the sewage system is operated and maintained in accordance with these regulations and the approved standards;
  - (b) meeting the costs of proper operation, and of maintenance or necessary upgrades of the sewage system, including any enclosed storage and any sewers and other fixtures that carry sewage to the tanks of the sewage system;
  - (c) reporting any discharges from the system to the Ministry which have the potential to damage the environment or impact upon human health.
- (2) A person who constructs, extends, maintains, repairs or de-commissions a sewage system is responsible for ensuring that the requirements of these regulations and the approved standards are complied with.

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- (3) A person who causes a discharge of sewage, effluent or treated effluent into surface water or groundwater which breaches the requirements of these regulations or the approved standards is responsible for the breach and the consequences of the discharge.
- (4) The owner of land upon which storm water and other systems regulated by these regulations and the approved standards are situated is responsible for ensuring that the system complies with all requirements under these regulations and the approved standards.
- (5) A person who constructs, extends, maintains, repairs or de-commissions a storm water and other system regulated by these regulations and the approved standards is responsible for ensuring that the system complies with all requirements under these regulations and the approved standards.

**14 Sewage discharges**

All discharges of sewage, effluent and treated effluent must be done in accordance with the requirements of these regulations and the approved standards.

**15 Sewage systems to meet approved standards**

- (1) All sewage systems installed after the date of commencement of these regulations must be of a design that has been approved by and registered with the Board under regulation 9.
- (2) All pre-cast septic tanks installed after the date of commencement of these regulations must be manufactured in accordance with approved standards, and by a registered manufacturer.
- (3) All septic tanks constructed on site after the commencement of these regulations must be constructed in accordance with approved standards.
- (4) Effluent from Secondary Treatment Systems and Advanced Treatment Systems must meet the approved standards.
- (5) All Secondary Treatment Systems and Advanced Treatment Systems must be operated according to the guidelines and requirements of their Operation and Maintenance Manual, and with the requirements of these regulations and the approved standards.
- (6) The design and construction of all Moderate Load Systems and High Load Systems must include enclosed storage to allow the storage of a minimum of 24 hours design flow in order to allow for equipment failures.
- (7) All drain laying associated with sewage systems must comply with approved standards for drain laying.
- (8) All sewage systems must comply with setback requirements stated in the approved standards, except if the Board approves alternative arrangements in cases where the land area is insufficient to adequately comply with setback requirements.
- (9) In cases where there is insufficient land area to adequately comply with the setback requirements provided in the approved standards, sewage treatment must be improved using methods authorised by the Board, or as provided in the approved standards.
- (10) Grease reduction must be installed in kitchens at all commercial facilities and other premises designated in approved standards, to prevent grease and oil from entering sewage systems, unless the Board is satisfied that the amount of grease generated at the facility does not require such measures.
- (11) No excavation is permitted within any area occupied by an existing sewage system or sewerage system without prior written approval by the Board.

- (12) Land application systems must be designed to achieve uniform application at or less than the maximum design loading rates as specified in the approved standards, and land application systems must be constructed according to specifications in the approved standards.

**16 Storm water and drainage requirements**

- (1) All storm water drainage systems must dispose of storm water to land or to any natural water by a method or design approved by the Board.
- (2) No storm water is to be discharged into any sewerage system or sewage system.
- (3) All storm water must be diverted away from any effluent land application area.

**Part 3**

**Construction of sewage systems**

**17 Sewage construction permits required**

- (1) A person must not install a sewage system or sewerage system unless both of the following are complied with—
- (a) a sewage construction permit for the system must be issued under this Part;
- (b) the system must be constructed and installed by a person appropriately registered under these regulations.
- (2) No environment permit or other consent or authority issued by the National Environment Service or any other government agency confers automatic approval of a Sewage Construction Permit.

**18 Applications for a sewage construction permit**

- (1) Any person who intends to install a sewage system must submit an application for a sewage construction permit to the Ministry in the approved form and accompanied by the prescribed fee.
- (2) An application for a sewage construction permit submitted under this regulation must include all of the following—
- (a) a completed application in the approved form which provides all the information required by the approved standards;
- (b) a signed declaration stating the number of people the sewage system will serve, and the names of the people who will be responsible for the costs of maintaining the sewage system, and any sewerage system connected to that sewage system;
- (c) a copy of the building plans and site plan showing the proposed number of bedrooms (if any) and the proposed number of buildings on the relevant site, and also showing where the septic tank or treatment unit and land application system will be positioned;
- (d) confirmation that the proposed system accords with a registered design;
- (e) if required by the Ministry or the Board, a declaration by the registered sewerage system designer who has been retained by the applicant to supervise the installation of the sewage system, that the sewage system is the appropriate design for the property;
- (f) a copy of the sewage system maintenance contract (if applicable):

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- (g) any other information, documents, diagrams, plans, declarations and statements as are needed to assist the Board in making a decision to approve the grant of the permit.
- (3) A declaration made pursuant to sub-regulation (2)(d) must include all of the following—
  - (a) the name and the contact particulars of the registered sewerage system designer who has been retained by the applicant to supervise the installation of the sewage system and any associated sewerage system:
  - (b) a statement of the choice of registered treatment unit and land application system to be used:
  - (c) a statement of the likely daily production of sewage waste based on the number of persons to be served, and the sewage design flows outlined in the approved standards:
  - (d) a declaration stating whether the proposed sewage system will be a Primary Treatment System, Secondary Treatment System or Advanced Treatment System:
  - (e) if applicable, the name and the contact particulars of the accredited manufacturer who will manufacture any septic tank:
  - (f) if applicable, the name and the contact particulars of the accredited manufacturer who will manufacture any Secondary Treatment System or Advanced Treatment System:
  - (g) any other statement, information or declaration that the Ministry requires.
- (4) All costs associated with the maintenance of a sewage system and any associated sewerage system that carries sewage to that sewage system are the responsibility of the owner of the sewage system.
- (5) In the case of the installation of Secondary or Advanced Treatment Systems, and in addition to the requirements of sub-regulation (1), all of the following documents must be submitted to the Ministry prior to the issue of a sewage construction permit—
  - (a) a written declaration signed and dated by an approved sanitary engineer contracted to design the sewage system that the proposed sewage system and any associated sewerage system was designed to meet all applicable requirements of these regulations and the approved standards:
  - (b) certification by the owner of a proposed Secondary Treatment System or Advanced Treatment System in relation to all of the following—
    - (i) that the system will be operated and maintained in accordance with all of the provisions of the applicable Operation and Maintenance Manual:
    - (ii) that the Operation and Maintenance Manual will be available to the operator of the sewage system:
    - (iii) a signed undertaking that upon sale or transfer of ownership of the sewage system, or upon sale or transfer of ownership of the property where the sewage system is located, the sale and transfer will include a copy of the Land Information Memorandum (Drainage) associated with that system, equipment manuals, operational data collected and the appropriate transfer documents, and provisions binding the new owner to the Operation and Maintenance Manual.

**19 Grant of a sewage construction permit**

- (1) Upon receipt of any application under regulation 18, the Ministry has authority to do all of the following—

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- (a) to review the application with the applicant to ensure that all of the following apply—
  - (i) that the application form has been correctly and fully completed:
  - (ii) that the application form has been signed by the applicant:
  - (iii) that all information required under these regulations has been provided:
  - (iv) that the declaration of the registered sewerage system designer has been signed:
  - (v) if applicable, the sanitary engineers declaration has been signed:
- (b) to affix the date of receipt upon the application form.
- (2) The Ministry has authority to request further information from the applicant, and the applicant must provide such information within a time period required by the Ministry.
- (3) If the Ministry is satisfied that the application for the sewage construction permit is complete and satisfactory, the Ministry will refer the application to the Board, which has authority to issue a sewage construction permit.
- (4) The Ministry has authority to decline an application if the applicant fails to provide the information required under these regulations.
- (5) A sewage construction permit is deemed to have expired and be void if work is not completed on the installation of the sewage system within 1 year of the issue of the permit, but upon application to the Ministry, the Board has authority to extend the period of validity of the permit to allow construction to be completed within an specific timeframe.
- (6) After a sewage construction permit has been issued, no deviation is permitted to be made from any of the particulars supplied upon any plan, drawing specification or document deposited with the application upon which the approval was issued, unless amended particulars clearly describing the intended deviation are supplied, and the Board has given written approval to for the deviation.

**20 Construction of sewage systems**

- (1) The construction of a sewage system under the authority of these regulations must be supervised by a registered installer, who is responsible for ensuring that the installation and construction is undertaken in accordance with these regulations and the approved standards.
- (2) A person to whom a sewage construction permit has been issued must notify the Ministry when work is ready for inspection, by submitting a Request for Sewage System Inspection in the approved form, and no works are to be covered up or enclosed until inspection has been made and approval given.
- (3) A sanitary inspector must be requested to inspect the site together with the registered installer who has supervised the installation of the sewage system to do all of the following—
  - (a) to verify that a registered installer has supervised the installation and construction of the sewage system to the requirements of these regulations and the approved standards:
  - (b) to complete the required inspection report:
  - (c) to verify that the positioning, installation and construction of the sewage system is to the approved plan and in accordance with the approved standards.

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- (4) If the positioning, installation and construction of the sewage system is not according to the approved standards, the sanitary inspector has authority, upon completion of any inspection pursuant to do both of the following—
  - (a) to require the installer to modify the installation to meet the these regulations and the approved standards;
  - (b) to request in writing that the applicant, after rectifying the defect, submits another Request for Sewage System Inspection, and pays an additional site inspection fee.
- (5) After receipt of any Request for Sewage System Inspection, a sanitary inspector has authority to undertake such inspections of the sewage system until he or she is satisfied that the construction complies with these regulations and the approved standards.

**21 Completion Certificate**

- (1) If, upon completion of any site visit under regulation 20, the sanitary inspector is satisfied that the design and positioning of the sewage system complies with the requirements of these regulations and the approved standards, the Board has authority to issue a Completion Certificate for the installation of the sewage system.
- (2) No sewage system installed after the date of commencement of these regulations is to be operated until a Completion Certificate has been issued under this regulation.
- (3) A copy of any Completion Certificate issued must be lodged in the registry, and the Ministry has authority to input the data in a database maintained under regulation 12.
- (4) A discrepancy between the constructed sewage system and the approved plans is sufficient reason for the Ministry or the Board to require that work be done to modify the sewage system at the owner's expense, or for the Board to withhold the issue of a completion certificate.

**22 Building Permit under Building Regulations**

The Ministry responsible for Works must not approve a building permit until a sewage construction permit has been issued for the sewage system under regulation 19, and any permit or right given in breach of this requirement is void and of no legal effect.

**23 Occupancy Permit under Building Regulations**

The Ministry responsible for Works must not approve an Occupancy Permit or give any other right to a person to occupy any building until a Completion Certificate has been issued pursuant to regulation 21, and any permit or right given in breach of this requirement is void and of no legal effect.

**24 Building extensions and alterations**

- (1) A person must not alter a building or build an extension to a building that will result in additional sewage flow without the prior written permission of the Board.
- (2) A person must not change the use of a building in such a way that the new use will result in additional sewage flow without the prior written permission of the Board.
- (3) For the purposes of this regulation, a person is deemed to change the use of a building if the new use will result in the placement of the building in a different class under the approved standards.



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- (4) If a building alteration or extension, or a change of class of a building, will result in additional sewage flow that contravenes the approved standards, the Ministry or the Board have authority to require the owner of the building to modify the existing sewage system, or to install a new sewage system, so that the approved standards are complied with.
- (5) If the owner of a building is required to install a new sewage system, the owner must apply for a sewage construction permit under these regulations.
- (6) If the owner of a building is required to modify an existing sewage system the owner must submit an Application for Sewage System Modification, and that application must contain such information, documents, diagrams, plans, declarations and statements required by these regulations.
- (7) Upon receipt of an Application for Sewage System Modification, the Board has authority to do any of the following—
  - (a) to approve the application:
  - (b) to approve the application subject to conditions:
  - (c) to defer final determination of the application pending the receipt of amendments or further information:
  - (d) to decline the application.

### 25 Compliance with other laws required

Any consent or permit given under these regulations does not exempt an applicant from the requirements imposed upon any construction activity or undertaking by any other law, whether or not a sewage construction permit has been granted.

## Part 4

### Operation and maintenance of sewage systems

#### 26 Operation of Moderate and High Load Systems

- (1) All Moderate Load Systems and High Load Systems must be fitted with measuring devices, if required by the approved standards, so that daily sewage flow or water consumption can be determined.
- (2) The operator of a Moderate Load System or High Load System must submit a record of sewage flow to the Ministry at a frequency stated in the approved standards.

#### 27 Operation and Maintenance Manuals and Warrants of Fitness

- (1) A person must not operate a Secondary Treatment System or Advanced Treatment System unless the following documents are prepared and kept available for inspection at all times at the site of such treatment system—
  - (a) an operation and maintenance manual which meets the approved standards:
  - (b) a written declaration, signed and dated by the engineer responsible for the preparation of the operation and maintenance manual for the sewage system, that the operation and maintenance manual meets the requirements applicable to the system, and that if the sewage system is operated in accordance with the manual, all applicable effluent standards will be complied with.

- (2) A scheme for granting warrants of fitness for Secondary Treatment System and Advanced Treatment System is to be implemented in accordance with approved standards, which can impose requirements and processes involving all of the following—
  - (a) annual inspections and reporting by maintenance contractors;
  - (b) periodic inspections at prescribed intervals by sanitary inspectors to ensure compliance with these regulations and the approved standards;
  - (c) flow monitoring;
  - (d) testing and sampling;
  - (e) review and necessary modification of the Operation and Maintenance Manual and plans;
  - (f) any other matter or requirement related to the issue of an annual warrant of fitness.

**28 Testing of Moderate and High Load Systems**

- (1) The owner of a Moderate Load System or High Load System must submit all of the following to the Ministry at a frequency, duration and commencement date to be determined by the Board—
  - (a) a written summary of design flow versus actual flow;
  - (b) effluent test results from an accredited laboratory for BOD<sub>5</sub>, suspended solids, faecal coliforms, total nitrogen and total phosphorus;
  - (c) a statement by the owner's engineer listing all results and reporting on the compliance or measures undertaken to ensure compliance with the operational standards under the approved standards.
- (2) The Board has authority from time to time to determine the number of effluent samples that must be collected and the frequency of their collection.
- (3) After examining the data submitted pursuant to sub-regulation (1), the Ministry has authority to determine whether or not the sewage system meets the approved standards.
- (4) The Ministry has authority to take effluent samples from any Moderate Load System or High Load System and have the samples analysed at an accredited laboratory, at any time.
- (5) The cost of collection, analysis and reporting of effluent samples collected by the Ministry can be charged to the owner of the sewage system, and is recoverable as a debt.
- (6) If a Moderate Load System or High Load System does not comply with these regulations and the approved standards, the owner must submit to the Ministry a corrective action report containing all of the following—
  - (a) an analysis of the cause of the failure to meet the operational standards;
  - (b) an estimate of the scope of the corrective action necessary to enable the sewage system to be in compliance;
  - (c) a schedule for the corrective actions;
  - (d) a date by which the treatment works will achieve compliance.
- (7) Upon receipt of a corrective action report and its referral to the Board, the Board has authority to do any of the following—
  - (a) to approve the corrective action report;
  - (b) to approve the corrective action report subject to conditions;
  - (c) to defer final determination of the corrective action report pending the receipt of amendments or further information.

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- (8) Upon completion of any work schedule undertaken under this regulation, the owner must submit to the Ministry a report on the results of effluent tests performed at an accredited laboratory after corrective action has been completed by a date specified by the Board.

**29 Abandonment of Secondary or Advanced Treatment Systems**

- (1) A Secondary Treatment System or Advanced Treatment System must not be abandoned, retired or disconnected without the written permission of the Board.
- (2) An application for permission to abandon, retire or disconnect a Secondary Treatment System or Advanced Treatment System pursuant to this regulation must be accompanied by an abandonment or disconnection plan that details time frame and means by which the system is to be rendered safe and harmless to human health and the environment.
- (3) Upon receipt of an abandonment plan, the Ministry will refer the report to the Board, which has authority to do any of the following—
- (a) to approve the abandonment plan;
  - (b) to approve the abandonment plan subject to conditions; or
  - (c) to defer final determination of the abandonment plan pending the receipt of amendments or further information.
- (4) Upon receipt of an approval under sub-regulation (3) the applicant must render the Secondary Treatment System or Advanced Treatment System safe in accordance with the approved abandonment plan.

**30 Maintenance contracts for Secondary and Advanced Treatment Systems**

- (1) An owner of a Secondary Treatment System or an Advanced Treatment System must have and maintain a sewage system maintenance contract with a registered servicing agent.
- (2) No sewage construction permit for a Secondary Treatment System or Advanced Treatment System will be granted until a copy of a maintenance agreement with a servicing agent has been lodged with the Ministry.
- (3) The servicing agent must be retained by the owner of a Secondary Treatment System or Advanced Treatment System to undertake inspections of the sewage system in accordance with the applicable Operation and Maintenance Manual.
- (4) Reports on the inspection of a Secondary Treatment System or Advanced Treatment System undertaken in accordance with these regulations, including any effluent test results, must be filed with the Ministry.
- (5) A copy of the maintenance contract and inspection reports required under this regulation must be made available for filing with the registry in accordance with these regulations.

**31 Sludge Removal**

- (1) Every septic tank must be de-sludged in accordance with the approved standards.
- (2) A Sludge Removal Report which complies with the approved standards must be completed by the sludge removal contractor, and the original copy must be given to the owner of the septic tank.
- (3) The sludge removal contractor must submit a copy of the sludge removal report to the Ministry within the period specified in the approved standards.

**Part 5**  
**Upgrades to existing sewage systems**

**32 Inspection of existing properties**

- (1) A sanitary inspector has authority to inspect a sewage system constructed at any time (whether before or after the commencement of these regulations) to determine compliance with these regulations and the approved standards.
- (2) During any inspection undertaken under sub-regulation (1), the sanitary inspector has authority to do all or any of the following—
  - (a) to check that all data relating to that sewage system is accurately recorded on a Geographical Information System infrastructure database:
  - (b) to assess the condition of the sewage system:
  - (c) to determine whether the effluent treatment area is sufficient for the design flow of the system:
  - (d) to require and supervise the pump out of the contents of the sewage system:
  - (e) to require the relocation, repair, remediation or alteration of any part of a sewage system to meet the approved standards:
  - (f) to require the replacement of an irreparable sewage system:
  - (g) to determine if a required maintenance contract is current and effective:
  - (h) to impose any other requirement in order that the sewage system complies with these regulations and the approved standards, and to set a time by which this is to be done.
- (3) During any inspection undertaken under this regulation the sanitary inspector has authority to determine whether a Secondary Treatment System or Advanced Treatment System complies with the applicable approved standards, and is operating so as to not cause any adverse effects on the environment or to human health.
- (4) The sanitary inspector must prepare a report outlining the checks made on the sewage system, the work done to the system and any requirements imposed and provide this to the Board as soon as practicable.

**33 Deficiency in a Sewage System**

- (1) If after reviewing any inspection report filed under regulation 32, the Ministry or the Board determines that any sewage system does not comply with the requirements of these regulations or the approved standards, the Ministry or the Board have authority to issue a written notice to require either of the following—
  - (a) that the sewage system be modified in such a way that it complies with these regulations and the approved standards:
  - (b) that a new sewage system be installed.
- (2) The period of time within which any work is required to be completed as prescribed in a notice issued under this regulation must not exceed either of the following periods—
  - (a) 2 years for any sewage system in the Lagoon Protection Zone:
  - (b) 3 years in relation to a sewage system in any other location.
- (3) For the purposes of this regulation, a sewage system is deemed to be within the Lagoon Protection Zone if the effluent from that system is dispersed within the Lagoon Protection Zone, or to any surface water.

- (4) Any work undertaken in accordance with a notice issued under sub-regulation (1) must be supervised by a registered installer or servicing agent, and be inspected by a sanitary inspector.
- (5) A new sewage system constructed pursuant to a requirement imposed under this regulation must comply with these regulations and must not be operated until a completion certificate has been issued.

## **Part 6**

### **Enforcement, penalties and liability**

#### **34 Powers of Inspectors**

- (1) It is a condition of every permit, approval or right given or issued under these regulations that the holder must permit inspectors to carry out inspections of any place to which the permit relates, and must comply with any direction given by an inspector.
- (2) The owner or occupier of any place in respect of which an inspector is exercising powers under these regulations must do both of the following—
  - (a) give the inspector all reasonable assistance to enable the inspector to exercise those powers and carry out those duties:
  - (b) furnish all relevant information that the inspector requires.

#### **35 Inspections**

- (1) The powers under this regulation are in addition to, and not in derogation of, the powers of inspectors under sections 18 – 21 (inclusive) of the Ministry of Health Act 2013.
- (2) For the purpose of the enforcement of these regulations, an inspector has authority to do all of the following—
  - (a) to undertake an inspection of any sewage system:
  - (b) to enter and inspect any place in relation to which a permit or approval has been issued under these regulations to determine whether any activity is being undertaken in violation of any condition or requirement:
  - (c) to require the production of documents relevant to any matter under these regulations or the approved standards, or any permit, certificate or approval given under these regulations:
  - (d) to undertake any test of a sewage system or to require that a test be undertaken as directed by the inspector:
  - (e) to take samples of any relevant thing, matter or substance, or to require that the owner of a sewage system arrange for samples to be taken and for tests to be conducted:
  - (f) to require the production of any report related to any test undertaken in relation to a sewage system, or to any monitoring of a sewage system, and to require any necessary verification of such a report or test.

#### **36 Proof of offence**

- (1) In any prosecution for an offence against these regulations it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or prosecuted for the offence.

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- (2) A certificate of an inspector stating that the inspector has analysed or examined a site, system, substance or product, and stating the result of the analysis or examination, is admissible in evidence in any prosecution for an offence under these regulations, and in the absence of evidence to the contrary, is proof of the statements contained in the certificate.
- (3) Despite the provisions of sub-regulation (2), the party against whom a certificate of an inspector is produced has a right, with the leave of the court, to require the attendance of the inspector for the purposes of cross-examination.
- (4) No certificate of an inspector is to be received in evidence unless the party intending to produce it has served it on the party against whom it is intended to be used.

**37 Offences and penalties**

- (1) Any person who breaches these regulations, or any applicable approved standard which applies to that person, commits an offence, and if no other penalty is prescribed by these regulations, he or she is liable upon conviction to a fine not exceeding either of the following—
  - (a) in the case of a body corporate, to a fine not exceeding \$5,000, and if the offence is a continuing one, to a further fine of \$500 for each day or part of a day that the offence continues:
  - (b) in the case of an individual, to a fine not exceeding \$500, and if the offence is a continuing one, to a further fine of \$50 for each day or part of a day that the offence continues.
- (2) Any person who does or causes to be done any of the following—
  - (a) provides false or misleading information in any application or report made or submitted under these regulations or the approved standards, or which relates to any other requirement under these regulations or the approved standards:
  - (b) breaches or acts in a manner which is contrary to any declaration made or provided under these regulations:
  - (c) tampers with or mishandles an effluent sample such that the tampering or mishandling affects the result of tests of that sample:
  - (d) fails to submit a report required by these regulations or the approved standards:
  - (e) hinders or obstructs an inspector who is exercising powers or carrying out his or her duties, or attempting to do so, pursuant to these regulations or the approved standards:
  - (f) covers a sewage system before it has been inspected pursuant to regulations or the approved standards:
  - (g) constructs any sewage system other than in compliance with the requirements of these regulations or the approved standards:
  - (h) operates any sewage system other than in compliance with the requirements of these regulations or the approved standards:
  - (i) undertakes any activity for which registration or a permit or approval is required under these regulations, while no such registration is valid and effective, or no such permit or approval has been given or granted:
  - (j) uses any sewage system, or any design or feature of a sewage system, which is required to be registered under these regulations when no such registration is valid and effective:

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- (k) owns a Moderate Load System or High Load System that has ceased to operate according to the requirements of these regulations or any permit issued under these regulations, and neglects to employ a method or methods to prevent the discharge of untreated sewage into the environment:
  - (l) fails to comply with a requirement lawfully imposed by a sanitary inspector under these regulations:
  - (m) commits any breach of these regulations or the approved standards which results in an unlawful discharge into the environment, or which has, or is likely to have, any adverse impact upon human health—
    - (i) commits an offence and is liable upon conviction—
      - (A) in the case of a body corporate, to a fine not exceeding \$10,000, and if the offence is a continuing one to a further fine of \$1,000 for each day or part of a day that the offence continues:
      - (B) in the case of an individual, to a fine not exceeding \$1,000, and if the offence is a continuing one to a further fine of \$100 for each day or part of a day that the offence continues.
- (3) In addition to any other penalty imposed under these regulations, the Court has authority to order that individual or body corporate who has committed an offence to do all or any of the following—
- (a) under the supervision and to the satisfaction of a person nominated by the Court, to clean up and remedy any damage caused to the environment as a consequence of the offence, within such period and upon such conditions as are specified in the order, with the intent that any damaged area be restored as near as possible to a satisfactory, environmentally sound state:
  - (b) to remove any structure, fill or material placed in contravention of these regulations or the approved standards:
  - (c) to pay such amount as the Court determines in respect of the expenses and costs that have been or are likely to be incurred to restore the environment to its former state or to remove any threat to human health.

**38 Liability of principals and agents**

- (1) If an offence against these regulations is committed by any person acting as the agent or employee of another person, that other person is, without prejudice to the liability of the first-mentioned person, liable under these regulations in the same manner and to the same extent as if he or she had personally committed the offence, if either of the following is proved—
  - (a) that the act or omission that constituted the offence took place with his or her authority, permission, or consent:
  - (b) that he or she knew or should have known that the offence was to be or was being committed, and failed to take all reasonable steps to prevent or stop it.
- (2) If any body corporate is convicted of an offence against these regulations, any person, being a director or a person concerned in the management of the body corporate, is guilty of the same offence if either of the following is proved—
  - (a) that the act or omission that constituted the offence took place with his or her authority, permission, or consent:
  - (b) that he or she knew or should have known that the offence was to be or was being committed, and failed to take all reasonable steps to prevent or stop it.

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**39 Indemnity provisions**

- (1) The provisions of this regulation are in addition to, and not in derogation of, the provisions of section 34 of the Ministry of Health Act 2013 which apply to all actions taken in accordance with these regulations and the approved standards.
- (2) A member of the Board, and the Ministry and the government, are not liable in respect of any of the following—
  - (a) anything done or omitted to be done in the exercise or performance of the functions, duties, or powers of the Board or the Ministry;
  - (b) any words spoken or written at or for the purposes of either of the following—
    - (i) the hearing of any application, inquiry, or investigation under these regulations; or
    - (ii) any other proceedings under the Act or this Regulation,—unless the thing was done or omitted to be done, or the words were written or spoken, in bad faith.
- (3) The Board, the Ministry and the government are not liable for the costs associated with the removal of a sewage treatment unit design from the register or for any other action taken in relation to any person or thing suspended or removed from a register, or otherwise dealt with in accordance with these regulations.
- (4) No Board member is liable to any civil or criminal action in any Court for any act or matter lawfully done and taken in the performance of the functions or the exercise of any of the powers conferred under these regulations.

**40 Repeal**

The Public Health (Sewage) Regulations 2008, the Public Health Sewage (Code) Regulations 2008 and the Public Health Sewage (Forms) Regulations 2008 are repealed.

**41 Savings and transitional provisions**

- (1) All permits, approvals, registrations and rights lawfully given or made under the authority of the repealed regulations remain valid and of legal effect as if they were done under these regulations.
- (2) The Board has authority to require that any permit, approval or right granted under the repealed regulations, or any registered person or design under the repealed regulations, be reviewed and re-issued or made under these regulations, and can set a date by which this is to be done and at which time the saved permit, approval, registration or right ceases to be valid.
- (3) All proceedings for any breach of the repealed regulations remain valid and can proceed as if the repealed regulations are still in force.
- (4) The forms prescribed in the Public Health Sewage (Forms) Regulations 2008 continue to be valid and are to be used until they are replaced by forms approved under section 33 of the Ministry of Health Act 2013.
- (5) The appointments of inspectors under the repealed regulations are deemed to be appointments made under these regulations, and all such inspectors have the functions and powers prescribed by these regulations.



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Clerk of the Executive Council

These regulations are administered by the Ministry of Health.  
These regulations were made on the 15<sup>th</sup> day of April 2014.