

REPRINT

ENVIRONMENTAL HEALTH ACT (CAP. 99)

As in force at: 1 October 2009

STATUS: CURRENT

For details see Endnotes

AN ACT TO MAKE PROVISIONS FOR SECURING AND MAINTAINING ENVIRONMENTAL HEALTH AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

ENVIRONMENTAL HEALTH ACT (CAP. 99)

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ENVIRONMENTAL HEALTH ACT (Cap. 99)

As in force at: 1 October 2009

1 Short title

This Act may be cited as the *Environmental Health Act*.

2 Interpretation

In this Act, unless the context otherwise requires:

“Authorised Officer” means an officer appointed under sections 4 or 6(1);

“Enforcement Authority” means an authority included in those specified in section 6(1);

“Minister” means the Minister from time to time assigned responsibility for environmental health matters, and **“Ministry”** shall be construed accordingly;

“Permanent Secretary” means the Permanent Secretary to the Minister responsible for environmental health matters.

3 Duties of the Minister

Subject to the provisions of this Act, the Minister shall be responsible for the administration of the environmental health services in Solomon Islands.

4 Appointment of staff

- (1) In administering this Act, the Minister shall have the services of a Ministry headed by a Permanent Secretary and may appoint such persons (to be known as “Authorised Officers”) as he considers necessary to assist him in the administration of this Act:

Provided that any appointment of a person who is not a public officer shall be in accordance with the Constitution.

- (2) The Minister may, after consulting the Secretary for the Public Service and, in the case of Authorised Officers appointed by Enforcement Authorities, the Minister responsible for Home Affairs, make regulations prescribing the training and qualifications required for the appointment of Authorised Officers, and the particular duties that may be undertaken by Authorised Officers having regard to their qualifications and training.

5 Delegation by the Minister

- (1) The Minister may by Order delegate any matters falling to be administered by the Ministry under this Act to an Enforcement Authority.
- (2) When delegating any of his powers, the Minister shall have regard to the expertise available to the Enforcement Authority and the ability of the Enforcement Authority to ensure that matters covered by this Act and regulations made hereunder can be adequately administered and enforced by the Enforcement Authority.
- (3) Any Order made by the Minister under subsection (1) may be revoked or amended by a subsequent Order.

6 Enforcement Authorities

- (1) The Enforcement Authorities to which the Minister may delegate matters in accordance with section 5(1) are the Provincial Assemblies and the Honiara Town Council.
- (2) Subject to any regulations made under section 4(2), an Enforcement Authority may appoint suitable persons to be Authorised Officers for the purposes of administering and enforcing those matters delegated to the Enforcement Authority under section 5.
- (3) The Ministry shall within the area of each Enforcement Authority administer this Act and regulations made hereunder in respect of those matters which have not been delegated to that Enforcement Authority by the Minister.

7 Default by Enforcement Authority

- (1) Whenever a complaint is made to the Minister and he is satisfied that

the public health in any locality is endangered by the failure or refusal on any part of any Enforcement Authority to perform the duties delegated to it under this Act he may, after making such enquiries as he considers necessary to ascertain whether the Enforcement Authority has been guilty of the alleged default, make an Order directing the Enforcement Authority to perform its duty in respect of the matter of such complaint and shall prescribe a time for such exercise or performance.

- (2) If the Enforcement Authority does not perform the duty within the time prescribed in the Order made under subsection (1), the Minister may appoint some other person to perform the duty and shall by Order direct that the expenses of performing the same, together with a reasonable remuneration to the person appointed for superintending such performance not exceeding the sum specified in the Order, shall be paid by the Enforcement Authority in default and any such expenses and costs so ordered to be met, may be recovered through a court.
- (3) Any person appointed under subsection (2) to perform the duty of a defaulting Enforcement Authority shall, in the performance and for the purpose of such duty, have all the powers exercisable by such Enforcement Authority under this Act or any regulations made hereunder.

8 Powers of Enforcement Authority

- (1) Any Enforcement Authority may, in respect of such matters as may have been delegated to it under this Act by the Minister, make by-laws to facilitate the efficient operation of services provided and actions carried out by it in connection with such matters.
- (2) Before making by-laws under subsection (1), an Enforcement Authority shall consult with the Minister.
- (3) Each Enforcement Authority shall carry out a programme of health education and publicity in accordance with directions given to it by the Minister.

9 Right of entry of Authorised Officers

- (1) Any Authorised Officer shall on producing, if required, some duly

authenticated document showing his authority, have the right to enter any premises at all reasonable times:

- (a) for the purpose of ascertaining whether there is or has been on or in connection with the premises any contravention of this Act or regulations made hereunder;
- (b) for the purpose of ascertaining whether or not circumstances exist which would authorise or require the Enforcement Authority to take action or execute any work under this Act or regulations made hereunder;
- (c) for the purpose of taking any action or executing any work authorised or required under this Act or any regulations made hereunder, to be taken or executed by the Enforcement Authority;
- (d) generally for the performance by the Enforcement Authority of matters assigned or delegated to it under this Act:

Provided that admission to any premises not being a factory, workshop or workplace shall not be demanded as a right unless twenty-four hours notice of intended entry has been given to the occupier.

- (2) If it is shown to the satisfaction of a Magistrate that:
 - (a) admission to any premises has been refused or that the premises are unoccupied or the occupier is temporarily absent or that the case is one of emergency or that an application for admission would defeat the object of entry; and
 - (b) there are reasonable grounds for entry into the premises as aforesaid,

the Magistrate may by warrant authorise any Authorised Officer to enter the premises, if need be, by force.

- (3) Any person who wilfully obstructs any Authorised Officer acting in execution of this Act shall be liable to a fine of 2,000 penalty units.

10 Protection of Authorised Officers

- (1) No Authorised Officer shall be generally liable in respect of any act done by him in the execution or purported execution of this Act and within the scope of his employment, if he did such act in the honest belief that his duty under the Act required him or entitled him to do it:

Provided that nothing in this section shall be construed as relieving an Enforcement Authority from any liability in respect of the acts of Authorised Officers employed by it.

- (2) Where an action has been brought against an Authorised Officer in respect of an action done by him in the execution or purported execution of this Act and the circumstances are such that he is not legally entitled to require the Enforcement Authority to indemnify him, the Enforcement Authority may nevertheless indemnify him against the whole or part of the damages and costs which he may be ordered to pay or may have incurred, if it is satisfied that he honestly believed that the action complained of was within the scope of his employment and that his duty under this Act required or entitled him to do it.

11 Regulations

- (1) The Minister may make Regulations for the better carrying out of the purposes and provisions of this Act and regulating the activities of any person (including the Government or any statutory authority) in relation to the maintenance or improvement of environmental health generally.
- (2) Such regulations may create offences and prescribe penalties in respect thereof not exceeding a fine of 10,000 penalty units or imprisonment for one year or for both such fine and imprisonment, and such penalty may provide for fines to be imposed on a daily basis in respect of a continuing offence.
- (3) Offences against regulations made under subsection (1) may be dealt with in the manner prescribed therein or as prescribed in section 12.
- (4) Until such time as the Minister shall have made regulations in respect of the matters contained therein and thereby replace them, each of Parts III to XII and section 2 (definition of terms used) of the *Public*

Health Act, 1970 shall be deemed to be a regulation made under the provisions of this Act and shall be read and construed accordingly:

Provided that the penalties prescribed in those Parts, and the method of dealing with the offences created thereby shall be subject to the provisions of this Act.

12 Summary proceedings for offences

Proceedings for enforcement of regulations made under this Act may, where the Enforcement Authority considers it desirable that the person it considers to be in breach of any such regulation shall first have the opportunity to remedy such breach, be taken in accordance with the provisions of this section:

- (a) where an Authorised Officer is satisfied that a contravention exists or has occurred, he shall serve a notice (hereinafter referred to as an abatement notice) on the person by whose act, default or sufferance the contravention arose or continues, and if that person cannot be found, on the owner or occupier of the premises on which the contravention occurs, requiring him, within a specified period of time to abate the contravention, or as the case may be, to prevent its recurrence, and for that purpose to carry out such work or to take such action as may be specified in the notice, provided that:
 - (i) where the contravention arises from any defect of a structural nature in a building, the notice shall be served on the owner of the building;
 - (ii) where the person causing the contravention cannot be found and it is clear that the contravention does not arise or continue by the act, default or sufferance of the owner or occupier of the premises, the Authorised Officer may, if he is so instructed by the Enforcement Authority (either generally or in a specified class) do what he considers necessary to abate the contravention or to prevent a recurrence thereof;
 - (iii) where it is practical to abate a contravention without delay, the word “immediately” may be specified instead of a period of time;

- (b) if the person on whom an abatement notice is served, fails to comply with the requirements thereof, or if the contravention although abated since the serving of the notice, is, in the opinion of the Authorised Officer, likely to recur, the person on whom the abatement notice has been served, may be summoned to appear in court and the court may impose such penalty and issue such orders concerning future action to be taken by the defendant, as it deems appropriate;
- (c) where proceedings are brought under this section in respect of a contravention of any regulation relating to the accumulation of a deposit of offensive matter, it shall be a defence by the defendant to prove that the accumulation or deposit was necessary for the carrying on of the business or manufacture, and has not been kept longer than necessary for the purpose of manufacture or business and that the best practical means have been taken to prevent it being prejudicial to the health of persons in the neighbourhood;
- (d) where proceedings are brought under this section in respect of a contravention of any regulation relating to dust, fumes, smoke, effluvia or effluent caused by any trade, business or manufacture it shall be a defence by the defendant to prove that the best practical means have been taken for preventing or counteracting the effects of the dust, fumes, smoke effluvia or effluent;
- (e) where a contravention appears to be due to the acts or defaults of two or all of them and any one or more persons, proceedings may be instituted against any one of them or two or more persons so proceeded against may be ordered to abate the contravention, so far as it appears to the court to be caused by his or their acts or defaults, or may be prohibited from continuing with acts or defaults, which in the opinion of the court, contribute to the contravention, or may be fined or otherwise be punished, notwithstanding that the acts or defaults of any one of those persons would not separately have caused the contravention.

13 Service of notices

Unless otherwise expressly provided, any order, notice, demand,

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certificate or other document required to be served under the provisions of this Act or regulations made hereunder may be served either:

- (a) by delivering it to the person on whom it is to be served; or
- (b) by sending it by registered post addressed to the last known place of business or residence of the person to be served; or
- (c) by leaving it with an adult occupier of the premises or place to which the notice relates or by posting it upon a conspicuous part of such premises or place.

14 Liability of secretary, manager or director of a company

Where a contravention of any of the provisions of this Act or regulations made hereunder is committed by any company or corporation, the secretary, manager or any director thereof may be summoned and shall be held liable for such contravention and the consequences thereof.

15 Prosecutions

- (1) An Enforcement Authority (which for this purpose shall include the Ministry) may, by any Authorised Officer, or by any person generally or specially authorised by it in writing, institute and conduct proceedings for any contravention of, or offence against, or default in complying with, any provision of this Act or regulations or by-laws made hereunder if the contravention, offence or default is alleged to have been committed within its boundaries.
- (2) All fines secured under the provisions of this Act by or on behalf of an Enforcement Authority other than the Ministry shall be paid into the general revenue of that Authority.
- (3) Nothing in this section shall be deemed to derogate from the powers of the Director of Public Prosecutions in relation to the prosecution of criminal offences.

16 Reference to owner of premises

Whenever in any proceedings whether written or otherwise under

this Act or any regulations made hereunder, it becomes necessary to refer to the owner of any premises, it shall be sufficient to designate him as the owner of those premises without name or further description.

17 Recovery of costs and expenses

Where any Enforcement Authority (including the Ministry) has incurred expenses for the repayment whereof the owner of the premises for or in respect of which the same are incurred is made liable under this Act or by an agreement with the Enforcement Authority, those expenses may be recovered, together with interest at a rate not exceeding five *per centum* per annum from the date of service of a demand for the same until payment thereof, from any person who is the owner of the premises when the works are completed for which the expenses have been incurred and until recovery of the expenses and interest the same shall be a charge on the premises in respect of which they were incurred.

18 Financial provisions

- (1) Any expenses incurred by the Ministry in the exercise of its functions under this Act shall be defrayed out of monies provided by Parliament.
- (2) All fees levied or charges collected by the Ministry or fines secured by or on behalf of the Ministry under the provisions of this Act or regulations made hereunder or regular visits made hereunder shall be paid into the Consolidated Fund.
- (3) Where fees are charged in accordance with Regulations made under this Act, the conditions under which any remission of such fees may be granted by the person or authority responsible for the collection thereof shall be prescribed by the Minister.
- (4) Any fee or charge payable under or by virtue of this Act or regulations made hereunder and remaining unpaid after the due date for payment, may in addition to any other lawful method of recovery, be recovered as a debt due to the Crown.

19 Repeal and savings

Subject to the provisions of section 11, the *Public Health Act, 1970* is hereby repealed:

Provided that all subsidiary legislation made thereunder in force immediately prior to the coming into operation of this Act, shall continue in force until such time as the Minister may by Order, revoke or rescind such subsidiary legislation or any part thereof, or otherwise replace the same.

ENDNOTES

1 KEY

amd = amended	Pt = Part
Ch = Chapter	rem = remainder
Div = Division	renum = renumbered
exp = expires/expired	rep = repealed
GN = Gazette Notice	Sch = Schedule
hdg = heading	Sdiv = Subdivision
ins = inserted	SIG = Solomon Islands Gazette
lt = long title	st = short title
LN = Legal Notice	sub = substituted
nc = not commenced	

NOTE

This Reprint comprises the Act and amendments as in force on 1 March 1996 and published as Chapter 99 of the Revised Edition of the Laws of Solomon Islands, together with amendments made to the Act since that date.

2 LIST OF LEGISLATION

Environmental Health Act (Cap. 99)

Constituent legislation: 3 of 1980 (Commenced 1 August 1980)

Penalties Miscellaneous Amendments Act 2009 (No. 14 of 2009)

Assent date	29 July 2009
Gazetted	1 October 2009
Commenced	1 October 2009

3 LIST OF AMENDMENTS

s 9	amd by Act No. 14 of 2009
s 11	amd by Act No. 14 of 2009