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SOLOMON ISLANDS WATER AUTHORITY ACT 1992
(No. 16 of 1992)THE SOLOMON ISLANDS WATER AUTHORITY (FINANCE)
REGULATIONS 1994

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SCHEDULE

THE SOLOMON ISLANDS WATER AUTHORITY ACT 1992
(No. 16 of 1992)

THE SOLOMON ISLANDS WATER AUTHORITY (FINANCE)
REGULATIONS 1994

IN exercise of the powers conferred by section 57 of the Solomon Islands Water Authority Act, 1992, the Minister hereby makes the following Regulations -

PART I
PRELIMINARY

1. The Regulations may be cited as the Solomon Islands Water Authority (Finance) Regulations 1994.

Citation.

2. (1) In these Regulations unless the context otherwise requires -

Definitions.

“appeal” means an objection from a decision referred to in regulation 16;

“commercial land” means land occupied or used as the site of a building used for commercial or business purposes;

“discharge factor” in relation to sewerage services, means the percentage of the water supplied by the Authority which is, in the view of the Authority, discharged to a sewer main of the Authority;

“dwelling” means a house, flat, apartment or similar construction that is occupied or used, or so constructed, designed or adapted as to be capable of being occupied or used, as a separate dwelling;

“Industrial land A” means land occupied or used for heavy or secondary industry development;

“Industrial land B” means land, other than industrial land A, occupied or used for industrial purposes;

“land” includes any estate or interest in land;

“non-residential land” means a parcel of land that is not residential land or vacant land;

“owner” shall have the meaning ascribed to it in the Land and Titles Act, Cap. 93;

“residential land” means a parcel of land occupied or used primarily as the site of one or more dwellings.

PART 2
SERVICE CHARGES AND OTHER CHARGES

Levy of fees
and charges,
etc.

3. (1) The Authority may, in accordance with section 24 of the Act and this Part, charge -

- (a) water service charges;
- (b) sewerage service charges;
- (c) loan service charges;
- (d) developmental works service charges; and
- (e) special industry service charges; on land within its area.

(2) The Authority may impose fees and charges for any service or thing supplied or provided by it in the exercise of its functions under the Act.

(3) The Authority shall make available for the information of its customers a copy of the full schedule of service charges and other fees and charges as determined and agreed to under the Act.

Land in
respect of
which the
Authority may
levy service
charges.

4. (1) The Authority may only levy water service charges on land -

- (a) to which water is supplied; or
- (b) to which, in the opinion of the Authority, it is reasonably practicable for water to be supplied, from one of the Authority's water mains.

(2) The Authority may only levy sewerage service charges on land -

- (a) from which sewage may be discharged; or
- (b) from which, in the opinion of the Authority, it is reasonably practicable for sewage to be discharged, into one of the Authority's sewer mains.

(3) The Authority may only levy developmental works service charges on land within a development area.

(4) The Authority may only levy special industry service charges on land on which a special industry is conducted.

(5) The Authority may not levy service charges in respect of any land described in the Solomon Islands Water Authority (Exempt Properties) Regulation 1994.

Classification
of land.

5. For the purposes of section 26 of the Act, the Authority may classify land for the purpose of levying service charges according to one or more of the following factors -

- (a) the purpose for which the land is in fact being used;
- (b) the intensity with which the land is being used for such purpose;

- (c) the purposes for which the land is capable of being used;
- (d) the nature and extent of the water and sewerage services connected to the land; or
- (e) the location of the land.

6. (1) For the purposes of section 27 of the Act the Authority may levy service charges according to one or more of the following bases -

Bases for
levying
service
charges.

- (a) the nominal size, determined in accordance with sub-regulation (2), of the water service pipe supplying water to the land;
 - (b) the nominal size, determined in accordance with sub-regulation (3), of the sewerage service pipe discharging sewage from the land;
 - (c) the area of the land;
 - (d) the assessment by the Authority of the cost of providing the service;
 - (e) the assessment by the Authority of the degree of use of the service;
 - (f) the location of the land;
 - (g) the type, as determined by the Authority, of the water meter servicing the land;
 - (h) the existence of a fire service pipe from the Authority's water main to the land.
- (2) For the purpose of sub-regulation (1)(a), the nominal size of a water service pipe supplying water to land shall be -
- (a) the nominal size of the pipe at the point where it joins the water meter registering water supply to the land; or
 - (b) if there is no such water meter, the nominal size of the pipe at the point where it enters the land.
- (3) For the purposes of sub-regulation (1) (b), the nominal size of a sewerage service pipe discharging sewage from land (whether the discharge is by gravitation or pressure) is the nominal size of the pipe at the point where it joins the Authority's sewer.
- (4) In these Regulations, "nominal size" means the numerical designation of size, "DN", which is common to all components in a piping system other than components designated by outside diameters.

7. For the purposes of section 28 of the Act, a determination by the Authority to levy service charges and fees shall be made at an ordinary or special meeting of the Board of Directors or of a committee of the Board of Directors after due consideration of a budget estimate.

Determinations
by the
Authority.

Availability
for connection
and liability
for charges.

8. (1) Upon a water main or a sewer main of the Authority becoming available for connection, the Authority -

- (a) shall publish in the Gazette notice of its availability; and
- (b) may give such other notices as may be prescribed.

(2) An owner of land to which a notice under sub-regulation

(1)(a) relates becomes liable -

- (a) in the case of a water main, to payment of water service charges after the expiration of 21 days from publication of the notice; or
- (b) in the case of a sewer main, to payment of sewerage service charges after the expiration of 21 days from publication of the notice.

(3) If an owner does not make a connection to the main of the Authority before becoming liable under sub-regulation (2) the Authority may make the connection at the expense of the owner.

(4) Any amount due to the Authority for a connection made under sub-regulation (3) is a charge on the land connected and may be recovered as a debt owed to the Authority by the owner of the land.

(5) If the owner of the land fails -

- (a) to connect the land to a water or sewer main before becoming liable under sub-regulation (2); and
- (b) to do any work that by the Act is required to be done by the owner,

the occupier of the land may make the connection or do the work and, in accordance with sub-regulation (6), recover the cost from the owner with interest at the prescribed rate.

(6) An amount (including interest) recoverable under sub-regulation (5) by an occupier from an owner may be recovered -

- (a) by deducting it from any rent from time to time payable to the owner by the occupier; or
- (b) as a debt owed to the occupier by the owner.

(7) Any person desiring to connect premises to a main for the purposes of this regulation may (subject to such conditions as may be imposed by law) open up the surface and soil of any road or way, public or private, or any footpath or public reserve to the extent required to make the connection.

(8) All plumbing and drainage work associated with the connection of land to the Authority's water or sewer mains shall be undertaken in compliance with the Solomon Islands Water Authority (Water and Sewer) Regulations 1994.

9. (1) For the purposes of section 24(4) of the Act, the Authority may impose such fees or charges (other than service charges) for goods supplied, or for services provided, as the Authority determines.

Fees and charges other than services charges.

(2) The charge for water supplied by the Authority shall reflect the quantity of water supplied by the Authority to the land or premises as registered by meter.

(3) The Authority shall adjust the charge for water supplied if -

- (a) the meter is found to be damaged; or
- (b) the meter has ceased to register; or
- (c) the meter, after being tested in accordance with the Solomon Islands Water Authority (Water and Sewerage Systems) Regulations 1994, is found to register incorrectly.

(4) The adjustment under this clause may -

- (a) if a reading of the meter was recorded for a corresponding period of the previous year, be calculated upon the basis of a daily consumption equal to the average daily consumption during the corresponding period of the previous year; or
- (b) if no reading of the meter was recorded for a corresponding period of the previous year, be calculated on the basis of a daily consumption equal to the average daily consumption during the period covered by the first reading taken by the Authority after the meter has been adjusted or another meter has replaced it.

(5) The Authority may agree with an owner or occupier of land or premises to adjust charges for water otherwise than in accordance with sub-regulation (4).

(6) The Authority may, in the case of an unmetered supply

of water, estimate the consumption of water supplied by the Authority for the purpose of imposing a charge under these Regulations.

(7) The charge for sewage collection, as carried out by the Authority, may contain a discharge factor to determine the quantity of water, as a percentage of the quantity measured or estimated as being supplied by the Authority to the land or premises, which is discharged from the land or premises to a sewer main of the Authority.

Charges in respect of leakages within the property boundaries.

10. (1) Where water is or is intended to be supplied to a property by the Authority through a water service that has been installed and includes a meter, and -

(a) a leak occurs (in the service pipe or the fittings connected to the service pipe) within the boundaries of the property;

(b) the leak gives a visible or otherwise apparent indication that water is being wasted; and

(c) the meter registration is increased as a result, the owner or occupier of the property shall pay for all the water registered by the meter.

(2) Where a leak occurs within the boundaries of the property and meter registration is increased as a result but the leak has given no reasonably sufficient visible or otherwise apparent indication that water is being wasted the Authority shall make an assessment of the quantity of water lost due to the leakage and the owner or occupier of the property shall pay for the cost of the quantity of water so assessed.

(3) In making an assessment under sub-regulation (2), the Authority shall take into account -

(a) whether the leak was the result of any action or inaction of the owner or occupier; and

(b) the length of time for which the leak has occurred.

Charges where leakages occur outside property boundaries.

11. (1) Where water is or is intended to be supplied to a property by the Authority through a water service (including a meter installed outside the boundaries of the property) that passes through land outside the boundaries of the property and a leak occurs (in the service pipe or the fittings connected to the service pipe) between the meter and the property and outside the boundaries of the property the Authority shall make an assessment of the quantity of water lost due to the leakage and the owner or occupier shall be liable.

(2) In making an assessment under sub-regulation (1), the Authority shall take into account -

(a) whether the leak was the result of any action or inaction of the owner or occupier; and

(b) the length of time for which the leak has occurred; and

(c) whether the leak gives a visible or otherwise apparent indication that water is being wasted,

and the owner or occupier of the property shall pay for the cost of the quantity of water assessed under this regulation.

12. (1) The Authority may notify a person liable to pay service charges levied, or fees or other charges imposed, that payment of the service charges or fees or other charges may be made to the Authority by a stated number of installments of specified amounts.

Payment by installments.

(2) Where there is a failure to make a payment in accordance with the notification, the total unpaid balance may be treated by the Authority as an overdue amount of service charges or fees or other charges even if payment by installments had commenced.

13. (1) Payment to the Authority of a service charge or fee or other charge -

Payment to the Authority.

(a) is due within the time; and

(b) may be made in any manner, specified in the notice of the service charge or fee in other charge.

(2) Failure to pay a service charge or fee or other charge under these Regulations when it was due for payment, and the Authority as a result incurs any expense in its recovery, the Authority may impose that expense as a further charge and recover it from the person.

(3) A further charge imposed under sub-regulation (2) is recoverable without notice having been given under sub-regulation (1).

14. (1) The Authority may require the payment of interest on an unpaid amount (other than unpaid interest) due to the Authority.

Interest on unpaid amounts.

(2) The rate of interest that the Authority may charge on overdue fees, service charges or other charges, shall be as prescribed in the schedule hereto.

(3) The Authority may determine different rates of interest for different unpaid amounts, but no such rate shall exceed the rate prescribed under these Regulations.

(4) Interest may not be charged in respect of a period commencing earlier than 7 days after the debtor is notified that interest may be charged.

15. (1) Where a service charge is levied on land that has been classified as residential land or non-residential land and the land ceases to belong to that class or the Authority later decides that the classification was incorrect, the Authority shall adjust the service charge in accordance with the correct classification.

Adjustment of service charge.

(2) An adjustment may take into account more than one change of class occurring during the period to which the adjustment relates.

(3) If a service charge is levied on a basis prescribed by regulation 4 and the Authority later decides that the basis was incorrect, the Authority shall adjust the service charge accordingly.

(4) If the Authority has not acted under sub-regulation (1), (2), or (3) and application for it so to act is made to the Authority in writing by the owner of the land concerned stating the grounds of the application, the Authority may act under sub-regulation (1), (2), or (3) or may refuse to do so, and shall give the applicant written notice of its decision.

(5) Where a service charge is adjusted under this regulation, the Authority -

- (a) shall (unless notice has been given under sub-regulation (4)) give written notice of adjustment to the person liable to pay the service charge; and
- (b) may recover any increase as if it were part of the service charge even if an objection has been lodged or made but not determined; and
- (c) shall refund any amount by which a service charge already paid has been decreased or credit the amount towards payment of any amount then payable to the Authority by the person liable to pay the service charge.

Objection to
certain
service
charges.

16. (1) Where a service charge is levied on land that has been classified as residential land or non-residential land the person liable to pay the service charge may, within 1 month after being served with notice of the levying of the service charge, object to the service charge.

(2) If an adjustment made under Regulation 15 results in a service charge being increased, the person liable to pay the amount of the increase may, within 1 month after being given notice of the increase, object to the adjustment.

(3) Where the application is made to the Authority under regulation 15 to adjust a service charge and the Authority -

- (a) refuses to adjust the service charge; or
- (b) adjusts the service charge otherwise than in accordance with the application,

the applicant may, within 1 month after being notified of the refusal, object to the refusal.

(4) An objection -

- (a) under sub-regulation (1) may be made only on the ground that the classification made for the purpose of levying the service charge was incorrect; or

(b) under sub-regulation (2) may be made only on the ground that the classification made for the purpose of adjusting the service charge was incorrect; or

(c) under sub-regulation (3) may be made only on the ground that the refusal by the Authority was unreasonable.

(5) An objection shall be made by lodging with the Authority, or by serving on the Authority by post, a written statement of the ground for the objection and the reason why the objector believes the ground exists.

(6) The Authority may allow, or disallow, an objection in part or in whole and shall give the objector written notice of its decision on the objection.

(7) A service charge may be recovered even if an objection is made under sub-regulation (1), (2) or (3) but, if the service charge is altered as a result of the objection or an appeal against disallowance of the objection, any excess amount shall be -

(a) refunded by the Authority or

(b) credited towards payment of any amount then payable to the Authority by the person liable to pay the service charge.

17. (1) Any person who is dissatisfied with a decision made by the Authority, pursuant to regulation 16(4), may within one month of receipt of a written notice appeal to the Magistrate's Court against the decision to a charge.

Appeal relating to objection to service charge.

(2) An appeal under sub-regulation (1) may only be made on the grounds on which the objection to the decision of the Authority was made under regulation 16(4).

18. (1) Where the Authority is of the opinion that reasonable cause has been shown for the deferral or waiver, it may defer payment of a service charge, or any other charge or fee, on such conditions as it thinks fit, or waive such a payment or any part thereof.

General power to defer or waive payment.

(2) The Authority may establish an account from which to fund any such deferral or waiver.

19. A person who wilfully makes false or misleading statement in an application for the refund, deferment or reduction of service charges commits an offence.

Making of false statement.

PART 3
MISCELLANEOUS

Meters.

20. (1) The Authority may install, and make charges for, meters, pipes and apparatus installed for the measurement, conveyance, reception and storage of water or sewage (including trade wastes).

(2) The Authority may, where it deems necessary, require an owner, occupier or other person requiring a supply of water or the disposal of sewage or liquid wastes to -

- (a) install meters, pipes or apparatus of a type and size approved by the Authority; and
- (b) effect the installation in accordance with the Authority's requirements; and
- (c) maintain the installation in good working order and in accordance with the Authority's requirements or directions.

(3) Where the Authority makes a direction or specifies any requirements under this regulation the owner, occupier or other person to whom it is made shall comply with it.

Service of notices.

21. (1) A notice under the Act to a Department of the Government may be served on the Department Head.

(2) A notice under the Act to a corporation constituted by or under an Act may be served by leaving it or sending it by post to the registered or principal office of the corporation.

(3) A notice under the Act to a person liable to payment of a service charge or fee or other charge, or to a person who is the owner or occupier of land or a building, may be served -

- (a) personally; or
- (b) by leaving it, at the place where the person to be served lives or carries on business; or
- (c) by post to the residence or registered or principal place of business of the person to be served; or
- (d) by affixing it to a conspicuous part of the land or building.

(4) Where a notice relates to unoccupied land or premises and the address of the owner is not known to the Authority, such notice may be served by an advertisement that -

- (a) is published in a newspaper circulating in the Authority's area; and
- (b) states the amount of the service charge, the period for which it is owing and that a detailed notice of the service charge may be obtained at the office of the Authority; and

(c) states that the advertisement operates as service of the notice.

(5) It is a sufficient description of the addressee of a notice to be served if the notice specifies "the owner", "the occupier" or any other apt description.

22. (1) The Authority shall keep such records relating to each service charge or in such manner as it determines.

Recording of
service charge
and other
charges.

(2) An amendment of the records kept under sub-regulation (1) may be made by -

- (a) inserting the name of a person who claims to be entitled to be recorded as owner or occupier; or
- (b) inserting the name of a person to whom an account a service charge or other charge should have been rendered or who had, since the levying of a service charge or the imposing of the other charge, become liable to pay it; or
- (c) omitting the name of a person whose name should not have been recorded; or
- (d) increasing or reducing the amount of a service charge or other charge, whether as a result of an error in recording or notifying it or as a result of a determination of the Authority or the outcome of an appeal; or
- (e) inserting particulars of land that should have been the subject of a service charge; or
- (f) making such other amendments as will ensure conformity with the Act and these Regulations.

(3) A liability to make a payment as a result of an amendment accrues on the making of the amendment but the payment is not overdue if made within 1 month after notice of the amendment and notice of the resulting liability has been given to the person liable.

23. (1) Where Crown land is leased to a person or held on private purposes, directly or indirectly, any service charge or other charge in respect of the land is payable -

Crown land
held on
lease.

- (a) if the lease has been transferred by way of mortgage, by the mortgagor or, if the Authority fails to recover it from the mortgagor, by the mortgagee; or
 - (b) in any other case, by the lessee.
- (2) In this clause, "lessee" includes licensee and permittee.

24. Where Crown land is occupied and used by the Crown in connection with a commercial or industrial undertaking, any service charge in respect of the land or other charge imposed is payable from the funds of such undertaking.

Crown
undertakings.

Successive
Crown lessees
in the same
charging year.

25. (1) This regulation applies to land -
- (a) that, in the same charging year for the Authority, is held successively by two or more lessees under a lease from the Crown (whether or not with an interval between them); and
 - (b) in respect of which the Authority has levied a service charge for that year or imposed a charge.
- (2) In relation to land to which this regulation applies, the Authority may -
- (a) make between the successive lessees such adjustment (if any) of the service charge or other charge whether paid or unpaid, as the Authority considers to be proper; and
 - (b) recover from such lessee the proportion of the service charge or other charge fixed for the lessee by the adjustment; and
 - (c) make any refund resulting from the adjustment.

Liability of
joint owners.

26. (1) If land is owned or held jointly by two or more persons liable to pay a service charge in respect of the land -
- (a) they are each jointly and severally liable for payment of the service charge and any other charge; and
 - (b) as between themselves, each is only liable for such part of the service charge or any other charge as is proportionate to the interest owned or held by the person in the land.
- (2) If one person referred to in sub-regulation (1) pays more than the proportionate part of a service charge or any other charge the person is required by that sub-regulation to pay, the excess may be recovered by way of contribution from the others jointly liable.

Liability on
disposing of
land.

27. (1) The liability of a person to pay a service charge levied by the Authority or a charge imposed in respect of any land does not cease on disposal of the land if notice of the service charge or other charge -
- (a) was given before disposal of the land; or
 - (b) is given after disposal of the land and before the approved notice of the disposal is given to the Authority.
- (2) Where a person disposes of any land and pays a service charge levied on the land or other charge imposed that became payable to the Authority after disposal of the land and before the approved notice of the disposal is given to the Authority, the person may recover the amount of the service charge or other charge from the person who acquired the land.

28. As between a person liable to pay a service charge or other apportionment charge in respect of land and -

- (a) a person who acquires the land; or
- (b) the person from whom the land was acquired, the service charge or other charge shall be apportioned on a daily basis.

Daily basis of apportionment of service charge.

29. (1) A person who, by becoming the owner of land, becomes liable to pay all current service charges or fees or other charges levied on, or applicable to, the land, even if notice of them was not given to the person until after becoming the owner of the land.

Liability of new owner.

(2) A person who becomes the owner of land and pays to the Authority a service charge, fee or other charge in respect of the land that was payable before the person became the owner, may recover the whole or a part of the service charge, fee or other charge from the person liable for its payment at the time notice of the service charge was served or notice of the fee or charge was given.

(3) Sub-regulations (1) and (2) do not apply to a person who holds land under a lease from the Crown or the Authority (whether or not the land was previously held under such a lease) that was granted after the service charge, or fee or other charge was levied or became applicable.

30. (1) A tenant of land in respect of which a service charge or other charge was remained unpaid for at least 1 month after becoming due is liable for payment of the service charge or other charge if the Authority serves on the tenant a notice requiring such payment to be made.

Liability of tenant.

(2) A tenant who pays a service charge or other charge in accordance with a notice served under sub-regulation (1) may set off the amount paid against rent due.

(3) Where no rent is due, or the amount paid to the Authority exceeds the rent due, the tenant may -

- (a) set off the amount paid, or the excess, against accruing rent; or
- (b) recover the amount paid, or the excess, as a debt due from the owner to the tenant.

(4) A tenant who pays a service charge for a period extending beyond the term of the tenancy may recover the amount paid as a debt due from the owner to the tenant.

(5) The receipt of the Authority for an amount paid under these Regulations is, to the extent of the amount shown therein, a discharge of the tenant from payment of the rent.

(6) In this regulation, "rent" includes money payable under a lease, licence or permit and "tenant" includes occupier.

Proportionate liability for service charge.

31. (1) Where a service charge becomes leviable on land on liability for which it was not previously leviable, the service charge extends only to so much of the service charge as bears to the whole of the service charge the same proportion as is borne to the charging year at the time the liability arises by the part of the year that is unexpired at the time.

(2) Where land on which a service charge is leviable ceases to be leviable for the service charge, liability for the service charge extends only to so much of the service charge as bears to the whole of the service charge the same proportion as is borne to the charging year at the time the liability ceases by the part of the year that has expired at the time.

(3) Where an amount of service charge has been paid in excess of the liability arising under sub-regulation (2), the Authority shall refund the amount of the excess or credit it towards payment of any amount then payable to the Authority by the person who would otherwise be entitled to a refund.

Savings and transitional.

32. Any action taken by, or in respect of, the Water Unit of the Ministry of Transport, Works and Utilities, under the Water Supply Act shall be taken to have been taken by, or in respect of, the Authority under these Regulations.

SCHEDULE

(Reg.14(2))

The interest rate referred to in these Regulations shall be an annual rate of 12%.

Dated at Honiara this ninth day of May, 1994.

EDWARD HUNUEHU
Minister of Transport, Works & Utilities