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The following Bill which will be introduced in the National Assembly is published for general information.

F. A. Narain,
Clerk of the National Assembly



GUYANA

**BILL No. 4 OF 2002
WATER AND SEWERAGE BILL 2002
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FIRST SCHEDULE

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A BILL
Intituled

AN ACT to provide for the ownership, management, control, protection and conservation of water resources, the provision of safe water, sewerage services and advisory services, the regulation thereof and for matters incidental thereto or connected therewith.

A. D. 2002 Enacted by the Parliament of Guyana:-

PART 1 - Preliminary

Short title and commencement. 1. This Act may be cited as the Water and Sewerage Act 2002 and shall come into operation on such day as the Minister may by order appoint and different days may be appointed for different provisions of the Act.

Interpretation. 2. In this Act -

- (i) "appointed day" means the day appointed for the coming into operation of this Act;
- (ii) "aquifer" means a geological formation which has structures or textures that hold water or permit appreciable water movement through them;
- (iii) "Authority" means the Guyana Water Authority established under section 3 of the Guyana Water Authority Act;

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- (iv) "borehole" includes any well, excavation or any artificially constructed or improved underground cavity which can be used for the purpose of -
- (a) intercepting, collecting or storing water in or removing water from an aquifer;
 - (b) observing and collecting data and information on water in an aquifer; or
 - (c) recharging an aquifer;
- (v) "Commissioners" means the Commissioners referred to in section 2 of the Water Commissioners Act;
- (vi) "collecting sewer" means the common drain into which is discharged the sewage from two or more premises and which conveys that sewage to a street sewer, and includes appliances and accessories to the drain;
- (vii) "conservation" in relation to a water resource means the efficient use and saving of water in terms of both quantity and quality which may if necessary be achieved through measures such as water saving devices, water-efficient processes, water demand management and water rationing and control of pollution.

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- (viii) "Council" means the National Water Council established under section 3;
- (ix) "Department" or "Hydrometeorological Department" means the Hydrometeorological Department referred to in section 8;
- (x) "household sewage" means the water discharged from sinks, baths, water closets and human waste;
- (xi) "house sewer" means a drain or pipe for the drainage of sewage from a house or building, its areas, water closets, baths, offices and stables to a street sewer or to a collecting sewer, and includes gully traps, sinks, traps and other accessories;
- (xii) "instream habitat" includes the physical structure of a watercourse and the associated flora and fauna in relation to the bed and bank of the watercourse;
- (xiii) "protection", in relation to a water resource, means -
- (a) maintenance of the quality of the water resources to the extent that the water resource may be used in an ecologically sustainable way;
 - (b) prevention of the degradation of the water resource through excessive abstraction or other

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significant alteration of the flow regime; and

(c) the rehabilitation of the water resource;

(xiv) "public supplier" means a person licensed under section 44 to provide water and sewerage services;

(xv) "resource quality" means the quality of all the aspects of a water resource including -

(a) the quantity, pattern, timing, water level and assurance of instream flow;

(b) the water quality, including the physical, chemical and biological characteristic of the water;

(c) the character and condition of the instream habitat;

(xvi) "sewerage system" means the system of sewers (not extending beyond the inspection chamber nearest to the street) which have been or shall after the appointed day be constructed whereby the sewage of any area within the public supplier's licence is intended to be conveyed or disposed of, and includes buildings, pumps, machinery, appliances and accessories used, employed or operated in connection with the sewerage system;

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- (xvii) "sewerage works" means main drainage sewers, collecting sewers and house sewers, and works or appliances forming part of the construction of the collecting sewers and house sewers, or incidental thereto;
- (xviii) "soil pipe" means the pipe forming the connection between a water closet and a house sewer;
- (xix) "surface water system" includes creeks and rivers;
- (xx) "transfer day" means the day specified in the order made under section 90;
- (xxi) "waste" includes any solid material or material that is suspended, dissolved or transported in water (including sediment) and which is spilled or deposited on land or into a water resource in such volume, composition or manner as to cause, or to be reasonably likely to cause, the water resource to be polluted;
- (xxii) "water closet" includes the necessary pan, supporting base, fittings, cisterns, and other flushing arrangements, soil pipe and ventilation shaft, and any other connection usually used for collecting and conveying sewage from one place to another, but does not include the enclosing structure;

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(xxiii) "water resources" means water systems, conservancies, canals and all other water arising from rainfall or runoff from the land that has been stored or captured within Guyana;

(xxiv) "waterworks" includes pipes, mains, weirs, buildings, constructions, pumps and machinery, appliances and works used for, or in connection with, the supply of water under a licence issued to a public supplier.

PART II - National Water Council

Establishment
of the National
Water Council.

3. (1) There is hereby established a National Water Council and the First Schedule shall have effect as to the matters therein provided for in relation to the Council.

(2) The functions of the Council are -

- (a) to provide advice to the Minister in implementing, developing and amending the national water policy;
- (b) to review the national water policy and recommend such amendments as may in the opinion of the Council be reasonable in order to ensure the conservation, protection and wise use of water resources;

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- (c) to provide advice to government agencies on the incorporation of the national water policy into their activities, programmes and policies;
 - (d) to oversee the management and co-ordination of the national water policy;
 - (e) to provide the Minister with analyses of national and regional water use including threats to water resources and to recommend alternatives and solutions.
- (3) In the exercise of its functions the Council may -
- (a) formulate and submit to the Minister policy recommendations; and
 - (b) provide or co-ordinate the provision of information and education to the public regarding -
 - (i) the national water policy;
 - (ii) the conservation, protection, sustainable use and management of water resources.

Annual report.

4.

The Council shall submit a written annual report to the Minister, on the status of the national water policy and the progress made during that year in the implementation of the national water policy.

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General duties of
of the
Minister and the
Council.

5. (1) The Minister shall discharge his functions under this Act in the manner which is best calculated to ensure that -

- (a) water resources are equitably allocated for the social and economic benefit of Guyana;
- (b) water resources are used in an efficient and sustainable manner;
- (c) the water environment is adequately safeguarded;
- (d) communities and assets are protected from severe hydrological events; and
- (e) changing patterns of water availability and use are sensibly accommodated.

Establishment of
of the national
water policy.

6. (1) The Minister shall upon the advice of the Council be responsible for the development of a national water policy.

- (2) The national water policy may be -
 - (a) introduced in a phased and progressive manner and in separate parts over time; and
 - (b) reviewed by the Minister and the Council annually but in any event not less than every two years.
- (3) Before establishing the national water policy or any

part thereof, the Minister shall -

- (a) publish a notice in two daily newspapers -
 - (i) setting out a summary of the proposed policy;

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- (ii) stating the address where the proposed policy is available for inspection; and
- (iii) inviting written comments to be submitted on the proposed policy and specifying an address to which and a date before which comments must be submitted, which date may not be earlier than ninety days after publication of the notice;

- (b) consider what further steps, if any, are appropriate to bring the contents of the notice to the attention of interested persons, and take those steps which the Minister considers to be appropriate; and
- (c) consider all comments received on or before the date specified in paragraph (a)(iii).

(4) In developing the national water policy the Minister shall take into account the following principles -

- (a) water is a natural resource and should be used so as to meet the needs of the present generation without compromising the ability of future generations to meet their needs;
- (b) water resources should be equitably allocated for the social and economic benefit of the people of Guyana;

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- (c) water resources should be protected, conserved and used sustainably.
- Contents of the national water policy.
7. (1) The national water policy may -
- (a) set out strategies, objectives, plans, guidelines and procedures to ensure -
- (i) the equitable allocation of water for the social and economic benefit of the people of Guyana;
 - (ii) that water resources are managed and used in a sufficient and sustainable manner;
 - (iii) that the environment is adequately safeguarded;
 - (iv) that communities are protected from severe hydrological events;
 - (v) that climate changes and changing patterns of climate change and water availability are sensibly accommodated;
 - (vi) that surface water is conserved and protected;
 - (vii) that sources of ground water are used sustainably; and
 - (viii) that existing rights are recognised and protected;
- (b) provide for -

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- (i) water resource management for drought and flood mitigation;
- (ii) environmental protection and pollution control in cooperation with other institutions;
- (iii) the more efficient use of water resources by all users;
- (iv) public awareness.

(2) In developing the national water policy the Minister

and the Council shall consult -

- the Guyana Lands and Surveys Commission
- the Department
- the Environmental Protection Agency
- the Guyana Geology and Mines Commission
- the Guyana Forestry Commission
- the Minister with responsibility for Agriculture
- any other agency of Government whose role or function is or would be affected by the national water policy
- local Government authorities including village councils of Amerindian villages and
- such other bodies or persons as may be necessary.

PART III - Hydrometeorological Department

Hydrometeorological
Department.

8. (1) In addition to its functions immediately before the appointed day, the Hydrometeorological Department within the Ministry of Agriculture shall discharge the functions conferred upon it by this Act.

(2) There shall be employed such additional staff for the Department as may be necessary to enable the Department to discharge its functions under this Act.

(3) The functions of the Department are -

- (a) to establish, manage and operate national systems, to monitor the availability, quality and use of surface water and ground water;
- (b) to establish, manage and operate national systems to monitor atmospheric conditions, climate change and water resources;
- (c) to establish and maintain forecasting competence including the competence in numerical models for weather, climate and water resources to satisfy policy directives, sustainable development, warnings and operational needs in: aviation, marine, agriculture, defence, water management, mining, tourism, construction and public recreation;

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- (d) to collect, process, archive and make available, data on weather, climate and climate change, hydrology and oceanography;
- (e) to establish, manage and operate licensing systems for -
 - (i) construction of boreholes;
 - (ii) abstraction of ground water;
 - (iii) construction of works affecting flow in watercourses; and
 - (iv) diversion or abstraction of surface water;
- (f) to establish a register of -
 - (i) each licence issued by the Department; and
 - (ii) each cancellation, amendment or relinquishing of a licence; and
- (g) to assess and record the impact of water use on the quantity and quality of surface water and ground water;
- (h) to provide technical and strategic advice to the Minister and the Council on all matters relating to climate and resource availability;
- (i) to provide other agencies with information on the composition of the atmosphere, quantity and quality

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of surface and ground water and sea surface temperatures, waves, swells, ocean currents and other factors;

- (j) to conduct research and systematic monitoring of activities in furtherance of Guyana's commitments under international related conventions;
- (k) to ensure that existing sources of ground water and surface water are conserved or used sustainably;
- (l) to promote public awareness of the atmospheric and water resources of Guyana;
- (m) to identify, promote, procure and implement research and development work that may be necessary from time to time in support of the above functions;
- (n) such other functions as may be necessary to implement the national water policy.

Establishment of
of national
monitoring systems.

9. (1) The Department -
- (a) shall continue to operate its existing network of climate, synoptic and water monitoring stations;
 - (b) shall establish national monitoring systems for water resources.

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(2) The national monitoring systems shall provide for the collection of appropriate data and information necessary to assess, among other matters -

- (a) the quantity of water in the water resources;
- (b) seasonal or temporal variations in water resources;
- (c) the quality of water resources;
- (d) the use of water resources;
- (e) the rehabilitation of water resources; and
- (f) atmospheric conditions which may influence water resources.

Establishment of mechanisms to co-ordinate monitoring of water resources.

10. (1) The Department may enter into a memorandum of understanding with any agency to -

- (a) co-ordinate and monitor water resources;
- (b) obtain data, information, documents or samples reasonably required for the national monitoring system or the hydrometeorological database; and
- (c) discharge its other functions.

(2) The Department may enter into arrangements with any competent person to establish mechanisms and procedures to monitor water resources.

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Establishment of hydrometeorological database.

11. (1) The Department shall establish -
- (a) a national hydrometeorological database including
 - (i) a hydrological information system;
 - (ii) a water resource quality information system;
 - (iii) a groundwater information system;
 - (iv) a register of water use authorisations;
 - (v) an oceanographic information system;
 - (vi) a climate and weather information system;
 - and
 - (vii) a surface water information system;
 - (d) standards for the collection of hydrometeorological data.

Objectives of hydrometeorological database.

12. (1) The objectives of the hydrometeorological database are -
- (a) to gather, process, store and provide data and information for the protection, sustainable use and management of water sources;
 - (b) to gather, store and provide information on climate, climate change and weather;
 - (c) to support objective evaluation of availability and quality of water resources;

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- (d) to provide information to water users, developers and the public -
- (i) for research and development;
 - (ii) for planning and environmental impact assessments;
 - (iii) for public safety and disaster management; and
 - (iv) on the status of water resources for evaluation of resource use proposals.

Provision of
of information.

13. The Department may require in writing that any person in possession thereof shall, within a reasonable period of time or on a regular basis, provide the Department with any data, information, documents, samples or materials reasonably required for -

- (a) the national monitoring system or for the hydrometeorological database; or
- (b) the management and protection of water resources.

Access to
information.

14. Copies of the records and information contained in the hydrometeorological database shall be made available by the Department at the Department's principal office during working hours, subject to any limitation imposed by law and the payment of a reasonable charge.

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Severe hydrological
events.

15. (1) The Department shall advise the Minister and relevant agencies of, and make available to them, information on -

(a) any flood which has occurred or which is likely to

occur;

(b) any drought which has occurred or which is likely to occur;

(c) levels likely to be reached by floodwaters from time to time;

(d) any risk posed by the quality of any water to life, health or property; and

(e) any other matter connected with climate, climate change, weather, oceanography or hydrology.

(2) The Department shall establish an early warning system in relation to the events contemplated in subsection (1).

(3) The Department may make information at its disposal available to the public in an appropriate manner, in respect of any matter under subsection (1).

(4) In this Part "Minister" means the minister responsible for Agriculture.

Appointment of
authorised
persons.

16. (1) The Department may, in writing, appoint any suitable person as an authorised person to perform the functions under section 17.

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(2) An authorised person shall be provided with a certificate of appointment signed by or on behalf of the Department in which the nature of the authorised person's functions is described.

Powers of the
Department.

17. (1) The authorised person may exercise any of the powers specified in subsection (2) for the purpose of discharging or, as the case may be, assisting in the discharge of the functions of the Department.

(2) The powers referred to in subsection (1) are -

(a) at any reasonable time (or at any time in a situation in which in the opinion of the Department this Act or a licence is being contravened or there is an immediate risk that this Act or a licence will be contravened) to enter property or premises which the Department has reason to believe it is necessary to enter;

(b) on entering any property or premises by virtue of paragraph (a) to take with him -

(i) any person duly authorised by the Department; and

(ii) any equipment or materials required for any purpose for which the power of entry is being exercised;

(c) to make such examination and investigation as may in any circumstances be necessary;

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- (d) to take such measurements, samples, photographs and recordings as the Department considers necessary for the purpose of any examination or investigation under paragraph (c);
- (e) to require the production of, or where the information is recorded in computerised form the furnishing of extracts from, any records which it is necessary for him to see for the purpose of an examination or investigation under paragraph (c) and to inspect, and take copies, of any entry in the records.

(3) Any person claiming the right to enter any premises shall, if required to do so, produce to the owner or occupier of such premises the document authorising him in that behalf.

(4) An authorised person entering property under the authority of this section shall, at the request of any person on that property, identify himself and present the certificate of appointment.

PART IV - Ownership and use of water

Ownership and
use of water.

18. (1) The ownership of all water resources and the rights to use, abstract, manage and control the flow of water are vested in the State subject to subsection (2).

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(2) All existing rights to own, use, abstract, manage and control the flow of water are hereby saved upon the terms of their grant or other lawful authority under which they are held.

Existing users of ground water.

19. (1) Any person who at the commencement of this Act operates a borehole shall within three months inform the Department of -

- (i) the location of such borehole;
- (ii) the purpose or use for which water is abstracted and the location at which water is used;
- (iii) the rate and volume of abstraction; and
- (iv) the authority by which such borehole is operated.

(2) Any person who fails to comply with subsection (1) shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (a) of the Second Schedule.

Second Schedule.

(3) No person shall operate a borehole after the commencement of this Act unless such operation is authorised by a valid licence or other lawful authority.

(4) Any person who fails to comply with subsection (3) shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (a) of the Second Schedule.

Second Schedule.

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(5) Any person who operated a borehole under any licence prior to the commencement of this Act shall within six months of the commencement apply to the Department for a licence and such licence shall be issued for a period not exceeding the unexpired term of the licence or twenty-five years, whichever is less.

(6) Any person who operated a borehole under any lawful authority other than a licence shall within six months apply to the Department for a licence and shall follow the procedure set out in section 32 for verification.

(7) Any person who fails to comply with subsection (5) or subsection (6) shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (b) of the Second Schedule.

Users of
surface
water.

20. (1) No person shall divert or abstract surface water in an amount which exceeds that prescribed by regulations unless such diversion or abstraction is authorised by a valid licence or by law.

(2) Any person who diverts or abstracts surface water under any lawful authority in an amount which exceeds that prescribed by regulations shall within six months apply to the Department for a licence and shall follow the procedure set out in section 32 for verification.

PART V - Licences

Procedure for
licence
applications.

21. (1) An application for a licence -

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- (a) shall be made to the Department in duplicate;
- (b) shall be made in the form prescribed by regulations;
- (c) may be withdrawn before the licence is granted by the applicant giving notice of withdrawal to the Department; and
- (d) shall be accompanied by a non-refundable application fee prescribed by regulations.

(2) Where any extraction of water to be authorised by a licence for water use may significantly affect the environment the applicant shall apply to the Environmental Protection Agency for an environmental permit and a licence may not be granted before such environmental permit is issued and shall be subject to the conditions of such environmental permit.

(3) Where it is not clear whether an activity or project may significantly affect the environment the applicant and the Department shall provide the Environmental Protection Agency with such information as may be required by the Environmental Protection Agency under any written law in order to make such a determination.

(4) The Department -

- (a) may, by notice served on the applicant, require the applicant, at the applicant's expense, to obtain and provide to the Department in writing within a reasonable time -

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- (i) other information, reasonably relevant to the application as may be specified in the notice;
 - (ii) an assessment by a competent person of the likely effect of the proposed licence on the resource quality;
 - (iii) evidence prepared by a competent person and sufficient to demonstrate that granting the application will not adversely affect resources availability to pre-existing lawful users;
 - (iv) an independent review of the assessment under subparagraph (ii) and the evidence prepared under subparagraph (iii), by a person acceptable to the Department;
- (b) may invite written comments from any agency or person who has an interest in the matter; and
 - (c) shall afford the applicant an opportunity to make representations on any aspect of the licence application.
- (5) The Department may, at any stage of the application process, require the applicant -

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- (a) to give suitable notice in newspapers and other media -
- (i) describing the licence applied for;
 - (ii) stating that written objections may be lodged against the application before a specified date, which must be not less than sixty days after the last publication of the notice;
 - (iv) containing such other particulars as the Department may reasonably require;
- (b) to take such other steps as it may direct to bring the application to the attention of relevant agencies, interested persons and the general public; and
- (c) to satisfy the Department that the interests of any other person having an interest in the land will not be adversely affected.

Renewal or
amendment
of a licence.

22. (1) Upon or before the expiry of a licence, the licensee may apply to the Department for the renewal or amendment of the licence
- (2) An application for the renewal or amendment of a licence shall -

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- (a) be made in such form, contain such information and be accompanied by such fee as may be determined by the Department; and
- (b) be dealt with according to the procedure set out in section 21.

(3) The Department may amend any condition of a licence by agreement with the licensee.

Reasons for decisions.

23. The Department shall give notice of its decision to the applicant and any person who has objected to the application and at the request of any such person shall give written reasons for its decision.

Persons to whom a licence may be granted.

24. (1) No licence may be granted to an individual unless he is a citizen of Guyana.

(2) No licence shall be granted to a body of persons

unless it is -
Cap. 89:01

No. 29 of 1991

Cap. 88:01

- (i) a company registered under the Companies Act or registered or continued under the Companies Act 1991, control of which is held by citizens of Guyana;
- (ii) a co-operative society registered under the Co-operative Societies Act;
- (iii) a public corporation;

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- Cap. 29:01
- (iv) a local democratic organ or an Amerindian village, district or area established under the Amerindian Act;
 - (v) a company other than a company mentioned in paragraph (i) which has the permission of the Minister to hold such a licence.

(3) Notwithstanding subsection (2) a licence may be granted to more than one person where there is justification therefor provided that each such person is qualified to hold a licence under this section.

Principles governing the issue of licences.

25. The Department shall take into account the following principles when granting, renewing or amending a licence -

- (a) water for domestic purposes shall take precedence over all other uses;
- (b) existing water users who have paid their fair share of operation and maintenance costs or administration fees shall have the right to available resources;
- (c) new users shall be approved up to the limit of water resources available for sustainable use; and
- (d) where a shortfall in water resources exists, abstraction for domestic consumption shall be

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safeguarded and all remaining water users shall receive an equal proportion of their normal entitlement.

Terms of licences. 26. A licence issued by the Department shall not exceed a term of twenty-five years.

Restrictions on transfer. 27. A licence may not, without the prior approval of the Department, be transferred from the licensee to any other person or used as security.

Mandatory conditions. 28. (1) A licence issued under section 21 shall contain the following conditions -

(a) that the licensee has a duty -

- (i) not to exercise his rights in such a way as to jeopardise or threaten the water supply for existing or potential water users;
- (ii) to measure and record the daily and annual rates of abstraction and to notify the Department of the results at least on an annual basis;
- (iii) in the case of ground water to measure and record static level, pumping level and quality at monthly intervals and to notify the

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Department of the results at least on an annual basis;

- (iv) at the request of the Department to permit the Department to inspect and audit the measurements and records made in compliance with paragraph (ii);
 - (v) at the request of the Department to permit the Department to inspect the location at which the licensee exercises his rights and to take measurements, samples and otherwise obtain data;
- (b) the methods and measuring or recording devices to be used, the frequency of measurement and the criteria for assessing the quality of water;
 - (c) the maximum quantities of water which may be abstracted on a daily and an annual basis and the method;
 - (d) in the event that there is a return flow where the quality of water is not significantly altered -
 - (i) specifying a water resource and location to which it must be returned or other manner in which it must be disposed of;
 - (ii) specifying the volume and the rate of the return flow;

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- (e) in the case of taking or storage of water -
 - (i) setting out the purpose or purposes for which and location at which the water is to be used;
 - (ii) setting out the maximum daily and annual rates of abstraction;
 - (iii) specifying the place from which water may be taken;
- (f) that the Department may amend a licence -
 - (i) in order to protect the quality of the water resource; or
 - (ii) if there is or is likely to be insufficient water in the water resource in order to accommodate existing or authorised water uses.

(2) An amendment may only be made under subsection (1) (f) if the terms of other licences for similar water use from the same water resource in the same vicinity, as determined by the Department, are also amended in an equitable manner.

(3) The Department shall give the licensee a reasonable opportunity to be heard before amending any term of the licence.

Permitted conditions. 29. (1) The Department may attach conditions to any licence -

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- (a) relating to the protection of the water resources in question by specifying practices to be followed to limit stream flow modification and other detrimental impacts on the water resource;
- (b) relating to water management by -
 - (i) specifying management practices and general requirements for any water use, including water conservation measures;
 - (ii) requiring the preparation and approval of and adherence to, a water management plan;
 - (iii) requiring the licensee to provide or make water available to a person specified in the licence; and
- (c) in the case of taking or storage of water specifying the times when water may be taken;
- (d) which are necessary or desirable to ensure compliance with the provisions of this Act.

(2) If a licensee has agreed to pay compensation to another person in terms of any arrangement to use water, the Department may make the obligation to pay compensation a condition of the licence.

Licence fees.

30. (1) The Department shall, prior to the issue of each licence, charge the licensee -

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- (a) an annual administration fee; and
- (b) an annual abstraction fee calculated by reference to the annual maximum volume of the water resource that the licensee may use.

(2) The Department shall charge the licensee the prevailing annual administration fee and annual abstraction fee on the anniversary of the issue of the licence for each year or a part of a year for the term of the licence.

(3) The administration fee charges under this section shall be set by the Minister at such rates as allow the Department to recover no more than the administrative and resource monitoring expenses attributable to the exercise by the Department of its functions in relation to licences and licence applications.

Licence replaces
previous authority.

31. Any licence issued under this Act to a person replaces the existing lawful authority of that person in respect of the water use which forms the subject of the licence.

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Verification.

32. (1) A person who uses water resources under lawful authority may apply to the Department to have such water use verified as an existing lawful water use.

(2) The Department may, by written notice require any person claiming a lawful authority to use water resources to apply for a verification of that lawful authority.

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(3) A notice under subsection (2) shall -

- (a) specify in reasonable detail the information to be submitted;
- (b) specify a reasonable date before which the application must be submitted;
- (c) inform the person concerned that any entitlement to continue with the water use may lapse if an application is not made on or before the specified date; and
- (d) be delivered personally or sent by registered mail to the person concerned.

(4) In order to verify the lawfulness or extent of an existing entitlement to water use the Department -

- (a) may require the applicant, at the applicant's expense, to obtain and provide it with other information which may reasonably be required, in addition to the information contained in the application;
- (b) may conduct its own investigation into the veracity and the lawfulness of the water use in question;
- (c) may invite written comments from any person who has an interest in the matter; and
- (d) shall afford the applicant an opportunity to make representations on any aspect of the application.

(5) The Department shall approve or reject the application for verification within a reasonable period of time and shall render its decision in writing with reasons.

(6) The Department shall make its decision available to the public and serve one copy of its decision on the applicant.

Rectification of
contraventions.

33. (1) The Department may, by notice in writing to a person who contravenes -

- (a) any provision of this Act; or
- (b) a condition of any licence,

direct that person, or the owner of the property in relation to which the contravention occurs, to take any action specified in the notice to rectify the contravention, within the time specified in the notice or any other longer time allowed by the Department.

(2) If the action is not taken within the time specified in the notice, or any longer time allowed, the Department may -

- (a) carry out any works and take any other action necessary to rectify the contravention and recover its reasonable costs from the person on whom the notice was served; or
- (b) apply to a competent court for appropriate relief.

Suspension of
licence.

34. (1) The Department may by notice to a licensee suspend a licence if the licensee fail -

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- (a) to comply with this Act;
 - (b) to comply with any condition of the licence; or
 - (c) to pay any licence fee.
- (2) A licence may be suspended under subsection (1) -
- (a) for the period specified in the notice of suspension;
- or
- (b) until the Department is satisfied that the licensee has rectified the failure which led to the suspension.

(3) The Department may only suspend or withdraw a licence under subsection (1) if the Department has directed the licensee to take specified steps to rectify the failure within a specified period, and the licensee has failed to do so to the satisfaction of the Department.

(4) The Department shall allow a licensee a reasonable opportunity to make representations on any proposed suspension of his licence.

Cancellation of licence. 35. (1) Where a licensee is in default the Department may by notice served on the licensee cancel the licence.

(2) For the purposes of subsection (1) a licensee shall be deemed to be in default if he -

- (a) fails to fulfil the conditions of his licence;
- (b) does not comply with the provisions of this Act;

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- (c) fails to pay any amount due under this Act or the licence;
- (d) is convicted of an offence under this Act; or
- (e) fails to rectify a contravention under section 33.

(3) The Department shall not cancel a licence unless -

- (a) the Department has, by notice served on the licensee, given not less than thirty days notice of the intention to cancel the licence and stating the ground therefor; and
- (b) the Department has in the notice, specified a reasonable date before which the licensee may, in writing submit any representation which he wishes the Department to consider.

(4) The Department may not cancel a licence under subsection (2)(c) if before the date of cancellation, the licensee pays the amount due together with interest at the daily rate set by the Bank of Guyana for short term lending.

Relinquishing of licence.

36. If a licensee relinquishes the licence, the licensee shall not be liable to pay any future annual administration or abstraction fees or furnish water usage records provided that the licensee -

- (a) has ceased exercising all rights under the licence;

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- (b) has decommissioned or disposed of the equipment enabling him to exercise his rights under the licence;
- (c) has notified the Department in writing that he has ceased exercising any rights under the licence and decommissioned the equipment enabling him to exercise his rights under the licence;
- (d) permits verification of these facts by the Department.

Issue of licence
no guarantee of
supply.

37. The issue of a licence by the Department does not imply any representation or guarantee relating to -

- (a) the statistical probability of supply;
- (b) the availability of water; or
- (c) the quality of water.

PART VI - Drought Orders

Power to make
drought orders.

38. (1) If the Minister is satisfied upon the advice of the Department or otherwise that a serious deficiency of supplies of water in any area exists or is threatened then, subject to the provisions of this Part, he may by order (in this Part referred to as a "drought order") make such provision as appears to him to be expedient with a view to controlling the

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amount of water demanded and minimising the economic and environmental impact of the deficiency.

(2) In this Part "Minister" means the Minister responsible for Agriculture.

Variation or revocation of a drought order.

39. (1) Where, on the recommendation of the Department, or in the Minister's discretion the basis on which a drought order has been issued either changes or ceases to apply the Minister may vary or revoke the drought order in order to address such change.

(2) The revocation or variation of a drought order shall not affect either -

- (a) the validity of anything done in pursuance of a drought order before the variation or revocation of such order; or
- (b) any obligation or liability accrued or incurred before the variation or revocation;

Provisions of a drought order.

40. A drought order may -

- (a) authorise any person to take water from any source specified in the order subject to any conditions or restrictions so specified;
- (b) authorise the Department to modify existing licence conditions governing the use of water resources;

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- (c) authorise the Department to prohibit the taking by any person of water from a source specified in the order if the Department is satisfied that the taking of water from that source seriously affects the supplies of water available in that area;
- (d) make different provisions for different cases, including different provisions in relation to different persons, circumstances or localities;
- (e) contain such supplemental, consequential and transitional provisions as the Minister considers appropriate;
- (f) authorise any person to carry out emergency works and for that purpose to enter upon, use and occupy any land specified in the order upon twenty-four hours notice or such shorter period as may be decided in the discretion of the Minister.

Duration.

41.

A drought order may have effect for a period of up to three months beginning with the day on which the order comes into force, unless extended by the Minister by subsequent order for an additional period not exceeding three months.

- Public supplier. 42. A public supplier shall take such steps, as are set out in the drought order, to bring to the attention of its customers the prohibitions or limitations applicable to the customers.
- Offences against drought order. 43. (1) Any person who fails to comply with any provision of a drought order shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (c) of the Second Schedule.
- Second Schedule. (2) In any proceeding against any person for an offence under this section it shall be a defence for that person to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

PART VII - Public Supplier

- Appointment of public supplier. 44. Subject to the provisions of this Part the Minister may grant a licence, which may be an exclusive licence authorising any person to provide potable water and sewerage services for a period which may not exceed twenty-five years, upon such terms and conditions as may be specified in the licence.
- Requirement for public supplier. 45. The Minister shall ensure that for every region of Guyana there is at all times a public supplier.

Scope of
appointment.

46. (1) The public supplier shall unless prevented by drought, other extraordinary event or unavoidable accident provide to the public a supply of potable water for domestic purposes and a satisfactory supply of water for industrial and commercial purposes and for such other purposes as are prescribed.

(2) The expression "water for domestic purpose" when used in relation to the supply of water does not include -

- (a) a supply of water for animals other than domestic animals or for washing motor vehicles that are kept for hire; and
- (b) a supply of water for any profession, trade or business or for use in fountains.

(3) The expression "domestic animals" means animals kept for domestic purposes.

(4) The expression "water for industrial or commercial purposes" when used in relation to the supply of water means water used in connection with any profession, trade, business or industrial or commercial enterprise.

(5) A public supplier may enter into arrangements with any local authority or other body to carry out the public supplier's functions in an area.

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Conditions of appointment.

47. (1) An appointment under this Part may include -

(a) such conditions as appear to the Minister to be requisite or expedient in respect of the duties imposed upon him under this Act; and

(b) conditions requiring the payment of a licence fee.

(2) Conditions may be included by virtue of subsection (1)(a) in a licence granted under this Part whether or not such conditions are connected with the supply of water, the provision of sewerage services or the exercise or performance of any power or duty conferred or imposed by or under any law on the public supplier.

(3) Conditions included in an appointment under this Part may contain provisions for the conditions to cease to have effect or to be modified at such time, in such manner and in such circumstances as may be specified in the appointment.

(4) All conditions included in a licence shall by virtue of this section have effect, irrespective of their subject matter as conditions of the grant of the licences.

Rates for the supply of water and sewerage services.

48. (1) Subject to section 49, the rates to be charged by a public supplier for the supply of water and sewerage services by it shall be in accordance with such rates as may be fixed from time to time by the Public Utilities Commission in accordance with this Act, the Public Utilities

Act No. 34
of 1997

Commission Act 1999, and the provisions of any licence granted to a public supplier under this Act and until such rates are fixed the prevailing rates before the appointed day shall apply.

(2) The rates to be charged by a public supplier shall not show undue preference for, or unduly discriminate against, any consumer or class of consumers similarly situated provided that different rates may be prescribed for different classes of consumers, by reference to the different areas of supply or different parts of such areas or to any other relevant circumstance.

(3) Subject to section 49, a rate for the supply of water and sewerage services by a public supplier, fixed by the Public Utilities Commission under subsections (1) and (2) of the Public Utilities Commission Act 1999 -

- (a) shall be disclosed in such a manner as to show the methods or formulae by which and the principles on which the charges are to be made as well as the prices which are to be charged;
- (b) shall be published in a daily newspaper;
- (c) may include a standing charge in addition to the charge for the actual water and sewerage services supplied; and
- (d) may include a charge in respect of any water and sewerage services meter fitted by the public supplier

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on the premises to which it supplies water and sewerage services.

Determination of rates.

49. (1) The rates to be charged by a public supplier shall

be determined in accordance with the mechanisms, formulae, principles and procedures set out in the licence granted to the public supplier.

(2) Notwithstanding the provisions of subsection (1), the Minister may by order fix a date upon which the rates to be charged by a public supplier shall be governed by section 48.

Service quality.

50. The Minister may by order fix a date from which the

Public Utilities Commission shall be responsible for monitoring, regulating and enforcing service quality and dealing with customer complaints.

Financing the public supplier's operations.

51. The Minister may finance the public supplier's

acquisition, construction, alteration, repair, operation and control of assets from funds appropriated by Parliament.

PART VIII - Certain powers of public supplier

Cutting trees, boughs and other vegetation.

52. A public supplier may cut and remove from any

street and enter upon and cut and remove from any private or public

land any tree or other vegetation which may tend to interfere with the compliance by the licensee with his obligations as a public supplier.

Conditions under which a public supplier may break up streets, etc.

53. (1) For the purpose of laying down, extending, inspecting, constructing, maintaining altering, renewing or repairing any water main, pipes, sewers, drains, or any part or parts thereof, or for the purpose of erecting, removing, repairing or maintaining pipes, sewers, drains to convey water and sewerage services, a public supplier may open and break any pavement, road, street, bridge, lane or public place along the routes of those mains, pipes, sewers or drains and may erect works therein subject to the following conditions -

- (a) the public supplier shall give to the authority in whose area the pavement, road, street, bridge, lane or public place is situated or to such other person in whom the maintenance of the pavement, road, street, bridge, lane or public place is vested not less than seven days notice of its intention, specifying the time at which it will begin opening or breaking up and the portion of the pavement, road, street, bridge, lane or public place proposed to be opened or broken up, unless the work is to remedy a dangerous situation or a situation that has interrupted or imminently threatens to interrupt the

supply of water and sewerage services, in which case the public supplier may begin work and shall inform the authority forthwith;

- (b) the public supplier shall not open or break up any pavement, road, street bridge, lane or public place except under the superintendence and to the reasonable satisfaction of the authority, unless that authority refuses or neglects to give superintendence at the time specified in the notice, or discontinues it during the work, or unless the work is to remedy a dangerous situation that has interrupted or imminently threatens to interrupt the supply of water and sewerage services, in which case superintendence may be dispensed with;
- (c) the public supplier shall not erect any works in a position to which the authority reasonably objects;
- (d) the public supplier shall not, without the consent of the authority, open or break up any road, street, bridge, lane or public place without providing reasonable facilities for the passage of the ordinary traffic on that road, street or bridge, to the satisfaction of the authority;

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- (e) until the pavement, road, street, bridge, lane or public place is restored, the place where it is opened or broken up shall be adequately lighted in such manner as to give proper warning to the public during the period between six o'clock in the evening of any day and five o'clock in the morning of the following day.

(2) When the public supplier has opened or broken up any portion of a pavement, road, street, bridge, lane or public place, it shall-

- (a) with all convenient speed, and in all cases within four weeks at the most (unless the authority otherwise consents in writing), complete the work on account of which it opened or broke up the pavement, road, street, bridge, lane or public place (subject to the construction, maintenance or removal of electric lines), and fill in the ground and make good the surface and, to the reasonable satisfaction of the authority, restore the portion of the road, street, bridge, lane or public place, to as good condition as that in which it was before it was opened or broken up and clear away all surplus paving, or other material or rubbish, occasioned thereby; and

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(b) cause the place where the pavement, road, street, bridge, lane or public place is opened or broken up at all times to be marked and adequately fenced or barred for the safety of the public.

(3) A public supplier who fails to comply with any obligation under this section, shall be guilty of an offence and shall be liable to the penalties specified in paragraph (c) of the Second Schedule.

(4) In this section "authority" in relation to a pavement, road, street, bridge or lane means the "road authority" which expression has the same meaning as in the Road Traffic Act and in relation to any public place means the local government authority or other body in charge of such place.

Public supplier
to request
alteration
of obstruction.

54. If a public supplier in operating or extending its works considers that the position of any tube, wire, apparatus or pole for any telegraphic or electrical purpose (in this section referred to as "obstruction") is likely to interfere with the compliance by the public supplier of its statutory or licence obligations, the public supplier may request the owner of the obstruction to alter its position and in the event that the owner fails to do so within a reasonable period of time the public supplier may alter the position of the obstruction in such a manner as will not interfere with the supply of electricity or telegraphic services.

Water meters.

55. (1) A public supplier shall have the right upon not less than seventy-two hours notice to enter any premises for the purpose of installing, monitoring or reading any water meter.

55

(2) Any person who obstructs a public supplier from exercising his rights under subsection (1) shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (c)

Second Schedule. of the Second Schedule.

PART IX - Sewerage

Existing Sewerage System.

56. (1) A public supplier shall -

(a) maintain and develop -

(i) the sewerage system and other property relating thereto; and

(ii) all sewerage works,

which are transferred to the public supplier under this Act.

(b) construct, develop and maintain such further sewerage works and sewerage systems as necessary or expedient for compliance with its licence issued under section 44;

(c) administer the sewerage services thereby established and provide sewerage facilities in Guyana.

(2) When the sewerage works within any area are completed, the public supplier shall give notice of completion to the local authority.

Sewerage areas.

57. (1) The public supplier may divide any area covered by its licence into sewerage areas for the purpose of constructing the sewerage works, and before commencing the sewerage works in any area, shall prepare a plan and give notice, published in the Gazette and one daily newspaper in the proposed sewerage area of the area and the plan.

(2) When the public supplier has given notice of a sewerage area under subsection (1), any person who wishes to construct or alter any building on any premises within that area shall submit the plan of the building to the public supplier.

(3) On issuing the notice referred to in subsection (2), the public supplier shall give notice by advertisement or otherwise to the owner of every house, building or premises within the area notifying him of his right to have any water closet on such premises connected, by the resident engineer to the nearest collecting sewer by means of a soil pipe.

(4) Before authorising the connection of the premises to a collecting sewer under subsection (3) the resident engineer shall inspect all water closets on the premises and certify that they meet the appropriate standards for connection.

Resident engineer.

58. (1) A public supplier may appoint a resident engineer in respect of any sewerage area.

(2) No building shall be constructed or reconstructed in any sewerage area unless the resident engineer has first approved of the

plan of the water closet, its connection with the house sewer, and any alteration or extension of a house sewer already constructed.

(3) The situation, dimensions, materials, construction and appliances of every water closet referred to in subsection (2) and house sewer shall be subject to the approval of the public supplier.

(4) Any person who fails to comply with subsection (2) or (3) shall be guilty of an offence and shall be liable to the penalties

Second Schedule. prescribed under paragraph (b) of the Second Schedule.

(5) A public supplier may require the owner of any building or premises within the area to construct and install any water closet directed by the resident engineer and to connect every water closet by means of a soil pipe and house sewer to the collecting sewer.

(6) Any person who fails to comply with the directions of the resident engineer under subsection (5) shall be guilty of an offence and shall be liable to the penalties prescribed under

Second Schedule. paragraph (b) of the Second Schedule.

Inspection and
maintenance of
sewerage
systems.

59. (1) All house sewers in private property, water closets, soil pipes and service pipes shall be subject to survey by the public supplier and shall be re-constructed, altered, repaired and kept in order by the owners or occupiers of the premises to which they belong or for the use of which they are constructed when so ordered by the public supplier.

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(2) All collecting sewers shall be under the survey, management and control of the public supplier and be re-constructed, altered, repaired and kept in proper order by the public supplier.

(3) The public supplier's resident engineer or any person appointed by the public supplier for that purpose, either generally or specially, may inspect and service any collecting sewer, house sewer, water closet, or service pipe and, for that purpose, at all reasonable times in the day without notice, may enter any house, building or premises with any necessary assistant and worker, and cause the ground to be opened where he thinks fit, doing as little damage as reasonably practicable, and if the service pipe, collecting sewer, or a house-sewer is found to be in proper order, he shall cause the ground to be closed and made good as soon as may be, and the expenses thereof shall be defrayed by the public supplier.

(4) If any house sewer, water closet or service pipe inspected under this section is found to be in a bad condition or to require alteration or repair, the public supplier's resident engineer shall execute such work or any other work he thinks necessary or expedient, and the public supplier may recover from the owner the expenses incurred in so doing.

(5) All collecting sewers, house sewers, water closets and service pipes shall, in addition to the inspection that may be carried out under this section, be subject to inspection by the medical officer of health, sanitary inspectors and any other officer appointed by the public supplier,

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who shall co-operate with the public supplier's resident engineer for the purpose of ensuring that the collecting sewers, house sewers, water closets and service pipes are kept in proper condition.

Prohibition of
injurious sewage.

60.

If in the judgment of the public supplier sewage of any particular kind would be injurious to the sewers, the public supplier may by notice published in the Gazette and one daily newspaper, prohibit from the time stated in the notice, the introduction of that sewage into any sewers, and if, after the date prescribed by the notice, that sewage is introduced, enters or flows, into any sewer, the occupier of any such house, premises or place, and also anyone introducing any of that sewage, or causing it to flow or enter into the sewer shall be guilty of an offence.

Sanitary contractor.

61.

(1) The Minister may grant licences authorising persons to construct, execute, repair or perform work in connection with house sewers, water closets, sewerage service and water service.

(2) The persons authorised under subsection (1) shall be referred to as licensed sanitary contractors and it shall be their duty to act in accordance with this Act and any regulations made under this Act.

(3) Licensed sanitary contractors shall be responsible for the acts and omissions of their employees.

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(4) The Minister may make regulations prescribing fees to be paid for examinations and licences of sanitary contractors.

(5) The Minister may in his discretion suspend or cancel the licence of a sanitary contractor who is guilty of misconduct in the performance of his duties under this Act:

(6) The grant, suspension or cancellation of a licence shall be published in the Gazette and a daily newspaper.

(7) No person other than a licensed sanitary contractor may do any work in relation to a collecting sewer, house sewer, water closet, soil pipe, sewerage and water service and any unlicensed person who does that work shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (b) of the Second Schedule, provided that any employee of the public supplier shall be deemed to be a licensed sanitary contractor with regard to work done by him under the authority of the public supplier.

Liability for expenses.

62. (1) When the owner or occupier of a house, building or premises is liable under this Act for payment of the expenses of any work done by the public supplier, the public supplier shall provide him with an itemised bill which will be payable within seven days.

(2) The public supplier may at the request of the owner permit the payment of the expenses by instalments, as it thinks fit, with

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interest on the principal amount from time to time remaining unpaid at the prevailing rate at its bank or other financial institution.

(3) The public supplier may, by way of additional remedy, require the payment of all or any part of the expenses and interest payable by the owner be recovered from the person who then, or at any time thereafter, occupies any of the premises concerned, and in default of payment by him on demand, the public supplier may enforce the payment against him in the same way as against an owner; and he shall be entitled to deduct from any rent payable by him to the owner so much as is paid by or recovered from him in respect of any such charge or interest.

(4) An occupier of any premises shall not be liable to pay more money in respect of any sums charged under this Act on the owner for work done by the public supplier other than the amount of rent due from him for the premises in respect of which premises those expenses and interest are payable at the time of the demand, or which at any time after the demand have accrued and become payable.

Service of demand
by public supplier.

63.

The following provisions shall apply to the making or service of any notice, demand or other document by a public supplier -

- (a) it may be authenticated by the name of the resident engineer being affixed thereto in print or writing;
- (b) it shall be sufficient if addressed to the owner or occupier of the house, building or premises (naming

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or describing him) to which it relates;

- (c) it may be served upon the person to whom it relates, either personally or through the post office, addressed to him at his usual or last known place of abode or business in Guyana or in case of an occupier, to the resident of the premises to which the document relates, or if the building is unoccupied and the place of abode of the person, after due inquiry, cannot be found, by affixing it or a copy of it to some conspicuous part of the premises.

PART X - Connection and disconnection

Connection to
distribution
system.

64. (1) Every property which is to be connected to the distribution system shall be connected to the nearest water main to the property, by means of a service pipe on which there shall be placed at least one tap.

(2) The connection referred to in subsection (1) shall be for purposes of effecting a continuous water supply to every property from the waterworks, and shall at all times be kept in such a proper condition, either by renewal of the service pipe or otherwise, as to secure a continuous and efficient service at all times, provided a supply of water is available from the waterworks.

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(3) If any property is without a connection, then upon request of the owner or occupier, the public supplier shall have the power to make the connection.

(4) After a connection has been made but has at any time and from any cause become defective, the public supplier shall have the power to put that connection in serviceable condition.

(5) Whenever there is a failure to have a supply of water to any property by means of a connection, the public supplier shall have the power to provide a supply of water to the property by other means.

(6) The public supplier shall have the exclusive right to make any connection, and to renew or repair it, at any time if found necessary or expedient.

Cost of connections.

65. (1) The cost of making any connection, renewal or repair may be borne by the owners or occupiers of the premises.

(2) The cost of the service pipes and other materials shall be borne by the public supplier up to the boundaries of the premises and any additional works on the premises shall be the responsibility of the owners or occupiers.

Disconnection for non-payment.

66. A public supplier may cut off a supply of water to any premises if the owner or occupier is liable to pay charges to the public

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supplier and has failed to do so within twenty-eight days of receipt of notice requiring him to pay such charges.

Disconnection for necessary work.

67. (1) A public supplier may cut off or reduce a supply of water to any premises for the purpose of carrying out any necessary works.

(2) Where a public supplier cuts off or reduces a supply of water under subsection (1) the public supplier shall carry out the necessary works with reasonable dispatch.

PART XI - Offences

Failure to provide access to records.

68. Any person who fails to provide access to any books, accounts, documents or assets when required to do so under this Act shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (b) of the Second Schedule.

Second Schedule.

Failure to provide information.

69. Any person who fails or refuses to give data or information, or who gives false or misleading data or information when required to give information under this Act shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (b) of the

Second Schedule

Second Schedule.

Depositing rubbish in sewerage system.

70. Any person who throws or deposits any garbage, tin, refuse, oil, metal, trade waste or any other matter or thing, except

household sewage and the necessary paper, into the sewerage system shall be guilty of an offence and shall be liable to the penalties prescribed under

Second Schedule paragraph (c) of the Second Schedule.

Waste in house sewer.

71.

If any waste other than household waste is found in a house sewer or the chamber which serves the house, the owner or occupier shall be guilty of an offence and shall be liable -

- (i) to the penalties prescribed under paragraph (b) of the Second Schedule;
- (ii) to pay the public supplier all costs of cleaning or unblocking the house sewer or chamber.

Second Schedule

Depositing of sewage.

72.

Whenever a house, building or premises has or have been provided with a house sewer and a water closet under this Act, and any sewage flows or is deposited or thrown from the house or premises, either within the premises or elsewhere other than by the house sewer from the house and premises, the occupier of the house, building or premises and anyone who deposits or throws any such sewage shall be guilty of an offence and shall be liable to the penalties prescribed under

Second Schedule paragraph (c) of the Second Schedule.

66

Tampering with
waterworks.

73.

Any person who unlawfully and intentionally or

negligently tampers or interferes with any waterworks or any seal or measuring device attached to a waterworks shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (d) of the Second Schedule

Second Schedule

Second Schedule.

Drawing off water.

74.

Any person who without lawful authority flushes,

draws off, diverts or takes water from any waterworks or other work constructed or maintained for the supply of water or from any water, creek or stream whereby the waterworks are supplied shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (d) of the Second Schedule

Second Schedule

Second Schedule.

Damage to waterworks.

75.

Any person who wilfully or negligently breaks,

damages or opens any lock, cock, pipe, waterworks or other work constructed or maintained for the supply of water shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (d) of the Second Schedule

Second Schedule

of the Second Schedule.

Interference with
water meter.

76.

Any person who interferes with, damages or

disconnects any water meter so as to prevent the meter showing the volume of water supplied to the premises shall be guilty of an offence and shall be

- Second Schedule liable to the penalties prescribed under paragraph (c) of the Second Schedule.
- Works affecting water meter. 77. Any person who carries out any works which affect the operation of a water meter shall be guilty of an offence and shall be
- Second Schedule liable to the penalties prescribed under paragraph (b) of the Second Schedule.
- Obstructing access to waterworks or sewerage system. 78. Any person who paves over any water main or access cover or otherwise obstructs access to any water works or sewer system by any permanent structure shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (c) of the
- Second Schedule Second Schedule, and shall be liable to pay the public supplier all costs of breaking up the pave or works in order to preserve access.
- Wasting of water. 79. Any person who wilfully or negligently wastes or causes to be wasted any water with which he is supplied by the public supplier shall be guilty of an offence and shall be liable to the penalties
- Second Schedule prescribed under paragraph (b) of the Second Schedule.
- Polluting waterworks. 80. Any person who bathes in any reservoir, conduit, aqueduct or other waterworks which is constructed or maintained for the supply of water, or washes, cleanses, throws or causes to enter therein any

animal, rubbish, filth, stuff or thing of any kind or causes, or permits, or suffers to run or to be brought therein, the water of any sink, sewer, drain, engine or boiler, or other filthy, unwholesome or adulterated water, or does anything whereby any water under the management or control of the public supplier, or whereby any water contained in any reservoir, conduit, aqueduct, or other waterworks is fouled, shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (d) of the

Second Schedule Second Schedule.

Obstructing public
supplier.

81. Any person who at any time obstructs the public supplier, or any employee of the public supplier, in the execution of any duty or the performance of any work under this Act or any regulation made under this Act shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (b) of the Second Schedule.

Second Schedule

Obstructing the
Department.

82. Any person who at any time obstructs the Department, or any employee of the Department, in the execution of any duty or the performance of any work under this Act or any regulation made under this Act shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (c) of the Second Schedule.

Second Schedule

Continuing offences.

83. Where a person is convicted of an offence under this Act or the regulations made thereunder, then, if the contravention in respect of which he

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was convicted is continued after he was convicted he shall be guilty of a further offence and liable on conviction to a further fine of one-fifth of the maximum penalty prescribed for that offence for each day on which the offence continues.

Offences by bodies
corporate.

84.

Where an offence under any provision of this Act or

the regulations made thereunder committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other officer of the body corporate or a person who was purporting to act in such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Proof of offences.

85.

In any prosecution of an offence under this Act, it is

sufficient proof of the offence to establish that it was committed by an employee or agent of the defendant, whether or not the employee or agent is identified or prosecuted for the offence.

Additional fine.

86.

Where an offender has been convicted of an

offence under this Act, the court may, where it is satisfied that as a result of the commission of the offence the offender acquired any monetary benefits or that monetary benefits accrued to the offender, order the offender to pay, notwithstanding the maximum amount of any fine that may

otherwise be imposed under this Act or the regulations made under this Act, an additional fine in an amount equal to the court's estimation of the amount of those monetary benefits.

Compensation for loss
of property.

87. (1) Where an offender has been convicted of an offence under this Act, the court may, at the time of passing the sentence and on the application of the person aggrieved, order the offender to pay to that person an amount by way of satisfaction or compensation for loss of or damage to property suffered by that person as a result of the commission of the offence.

(2) Where an amount that is ordered to be paid under subsection (1) is not paid forthwith, the applicant may, by filing the order, enter as a judgment, in the court in which the trial was held, the amount ordered to be paid, and that judgment is enforceable against the offender in the same manner as if it were a judgment rendered against the offender in that court in civil proceedings.

Limitation of liability.

88. A person exercising his duties under this Act shall not be liable in any civil or criminal proceedings for anything done in the performance thereof if the Court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

PART XII - Acquisition of lands

- Acquisition of lands. 89. (1) The Minister may in accordance with the
Cap. 62:05 Acquisition of Lands for Public Purposes Act compulsorily acquire land
for and on behalf of a public supplier for the purpose of the proper and
effectual exercise of a licence granted to a public supplier for the provision
of water and sewerage services.
- (2) In order for the Minister to proceed under
subsection (1), the public supplier shall expressly request the Minister to
acquire the land, satisfying the Minister from documentary evidence,
including plans and studies, that the land is required so that the public
supplier may adequately fulfil the conditions of its licence.
- (3) The Minister shall not proceed to acquire land
under this section unless he is satisfied that the public supplier is able to
make prompt payment to any person entitled to compensation for the land
in consequence of such compulsory acquisition, of a sum which represents
the fair market value of the land, whereupon the land being vested in the
State the land is transferred by deed to the public supplier by the Minister.
- (4) Where land is acquired under this section and the
land is no longer required for the purposes for which it is acquired, the
Minister shall have the authority to re-vest by deed of transfer the land in
the proprietor from whom it was compulsorily acquired subject to the

refund of the compensation, and subsection (5) shall apply mutatis mutandis in relation to the re-vesting of the land as it applies on the transfer to the public supplier.

(5) Where land is transferred to a public supplier under subsection (3), the land shall vest in the public supplier from the date of such transfer and -

(a) a notice to that effect shall be published in the Gazette;

(b) the deed of transfer shall be treated for all purposes as if it were a transport or other document effecting the conveyance of immovable property, and the Registrar of Deeds shall take due notice thereof and shall make such annotations on the records as may be necessary, including an annotation that the public supplier shall not dispose of such land or any interest or right in or over it, except with the written consent of the Minister.

(6) A public supplier who has acquired any land by virtue of this section shall not dispose of that land or of any interest in or right over it except with the consent of the Minister.

(7) Subject to the preceding subsections, the Acquisition of Lands for Public Purposes Act, shall apply mutatis mutandis in relation to the acquisition of lands under this section as they apply in relation to an acquisition wholly under the Acquisition of Lands for Public Purposes Act,

and for that purpose shall be construed with any necessary modifications, adaptations, qualifications and exceptions, and, without prejudice to the generality of the foregoing, subject, in particular, for the purpose of such application, to the following modifications -

- (a) the proper and effectual exercise of its licence by a public supplier shall be deemed to be a public work, that is to say, whatever is to be done or constructed on the land shall be deemed to be a public work;
- (b) sections 7(2), 10, 24, 26 and 27 shall not apply to an acquisition under this section;
- (c) in section 9(1) there shall be substituted for the words "and may at the same time or any subsequent time deposit a certificate under his hand to the effect that the National Assembly has voted the sum necessary for compensation" the words "and shall at the same time, where the proprietor has received compensation, deposit a certified copy of the receipt therefor; where arrangements satisfactory to the proprietor have been made for the payment of compensation, deposit a certified copy thereof; or where compensation is to be determined, deposit a statement showing how and in what manner this is to be effected."

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(8) In this section "Minister" means the minister responsible for public works.

PART XIII - Creation of Guyana Water Inc.

Creation of Guyana Water Inc. and related provisions.

No. 29 of 1991

90. (1) Guyana Water Inc. shall be constituted as a public company limited by shares on or before the appointed day by the submission to the Registrar of Companies of the articles of incorporation and other documents that are required under the Companies Act 1991, and by the issuance of a certificate of incorporation.

(2) The Minister is hereby empowered to make vesting orders with respect to the transfer and vesting of -

- (a) such assets and liabilities relating to the undertaking of the Commissioners and the Authority as may be specified by the Minister in the said order; and
- (b) the following -
 - (i) all assets relating to the undertaking of the Commissioners and the Authority held by the Government or by any entity owned by the State or in which the controlling interest is vested in the State or any agency or other entity on behalf of the State;

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- (ii) all easements, way-leaves and rights-of-way, and rights and claims thereto, necessary for the ownership, operation, maintenance, repairs and replacement of the assets of the Commissioners and the Authority, as such easements, way-leaves and rights-of-way, and rights and claims thereto, exist on the transfer day.

(3) The vesting order issued under subsection (2) shall provide for the transfer to Guyana Water Inc. of the employees of the Commissioners and the Authority and the rights and obligations of the Commissioners and the Authority under collective labour agreements relating to the employees transferred.

(4) The vesting order issued under subsection (2) shall include an opening balance sheet for Guyana Water Inc. and the value of the assets and liabilities of Guyana Water Inc. as of the transfer day shall be as set out in such opening balance sheet.

(5) All transfers of assets effected under this section shall include all liabilities, claims, interests, rights and other encumbrances in or over such assets.

(6) Where an order referred to in this section vests or transfers immovable property to Guyana Water Inc. the order shall be treated for all purposes as if it were a transport or other document effecting the conveyance of immovable property, and the Registrar of

Cap. 5:01

Deeds shall take due notice thereof; and the order shall be registered by the Registrar of Deeds under section 12(3) of the Deeds Registry Act as if it were a transport and filed as of record in the Deeds Registry; and the Registrar shall make such annotations as may be necessary and shall, issue new transports to Guyana Water Inc. in furtherance of the transaction provided for in this section, no fee nor advertisement being necessary.

No. 21 of 1988

(7) Sections 5, 8 and 11 and any other applicable provisions of the Public Corporations Act 1988 not in conflict with this Act or with the transaction provided for in this section shall mutatis mutandis apply to an order made under this section.

- (8) Nothing effected or authorised by this Act -
- (a) shall be regarded as placing Guyana Water Inc. or any other person in breach of contract or confidence or as otherwise making any of them guilty of a civil wrong;
 - (b) shall be regarded as giving rise to a right for any person to terminate or cancel any contract or arrangement or to accelerate the performance of any obligation;
 - (c) shall be regarded as placing Guyana Water Inc., or any other person in breach of any enactment or rule of law or contractual provision prohibiting, restricting, or regulating the assignment or transfer

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- of any property or the disclosure of any information;
- (d) shall release any surety wholly or in part from any obligation; or
- (e) shall invalidate or discharge any contract or security, all of which shall continue in effect in accordance with the vesting order made under subsection (2).
- (9) With effect from the transfer day -
- (a) for the purpose of every law, every determination or agreement relating to the employment of each employee of the Commissioners and the Authority transferred to the Guyana Water Inc. in accordance with the vesting order made under this section such employment shall be deemed to have been unbroken and the period of service of each such employee with the Commissioners and the Authority and every other period of service of that employee that is recognised as continuous service with the Commissioners and the Authority shall be deemed to have been a period of service with the Guyana Water Inc;

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- (b) the terms and conditions of employment of each employee referred to in paragraph (a) shall, until varied, be identical with the terms and conditions of that employee's employment with the Commissioners and the Authority immediately before the transfer day and be capable of variation in the same manner.
- (c) no such employee shall be entitled to receive any payment or other benefit by reason of this Act.

(10) The Minister may grant to the Guyana Water Inc. in the licence to be issued under this Act and at no charge to the public supplier such easements, way-leaves and rights-of-way across lands owned by the Government or any local government authority, or any entity owned or controlled by the Government or any local government authority, and access thereto, as may be necessary for the Guyana Water Inc. to carry out its licensed activities.

(11) Notwithstanding anything in Part IV Division C of the Companies Act 1991 the accounts of Guyana Water Inc. shall be kept and audited in accordance with the relevant provisions of sections 157 to 167 of the said Act and Schedule VI thereof and not later than six months after the end of each calendar year the company shall submit to the Minister a report containing an account of its transactions throughout the preceding calendar year in such detail as the Minister may direct and a statement of the audited accounts of the company for laying before the National Assembly not later than nine months after the end of each calendar year.

Act No. 29 of
1991

Dissolution of
the Authority
and the
Commissioners.
Cap. 55:01

91. (1) The Authority is hereby dissolved with effect from the appointed day.

Cap. 55:02

(2) The Commissioners are hereby dissolved with effect from the appointed day.

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(3) Notwithstanding the dissolution of the Authority and the Commissioners, such of the provisions of the Guyana Water Authority Act and the Water Commissioners Act, not inconsistent with this Act and which are essential to facilitate the discharge by the Guyana Water Inc. of its functions under this Act shall be deemed to be part of this Act and shall apply to Guyana Water Inc. mutatis mutandis.

Power to remove
difficulties.

Cap. 55:01

Cap. 55:02

92. The Minister may, for the purpose of removing any difficulty in giving effect to the provisions of this Act, particularly in relation to the transition from the provisions of the Guyana Water Authority Act and the Water Commissioners Act to the provisions of this Act, make such order or give such direction, not inconsistent with the provisions of this Act, as appears to him to be necessary or expedient for the purpose of removing the difficulty:

Provided that no such order or direction shall be made or given after the expiry of two years from the appointed day.

PART XIV - Regulations

Regulations.

93. (1) The Minister may make regulations for the purpose of giving effect to the provisions of this Act.

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(2) Without prejudice to the generality of subsection

(1) regulations may be made for all or any of the following matters -

- (a) requiring that the use of water from a water resource be monitored, measured and recorded;
- (b) requiring that any water use be registered with the Department;
- (c) prescribing the outcome or effect which must be achieved by the installation and operation of any waterworks;
- (d) regulating the design, construction, installation, operation and maintenance of any boreholes or waterworks, where it is necessary or desirable to monitor any water use or to protect a water resource;
- (e) requiring qualifications for and registration of persons authorised to design, construct, install, operate and maintain any waterworks, in order to protect the public and to safeguard human life and property;
- (f) regulating or prohibiting any activity in order to protect a water resource or instream habitat;
- (g) prescribing procedural requirements for licence applications;
- (h) prescribing methods for making a volumetric determination of water to be ascribed to a stream

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flow reduction activity for purposes of water use allocation and the imposition of charges;

- (i) prescribing the required contents of, and procedures for obtaining assessments of the likely effect which any proposed licence may have on the quality and availability of the water resource in question;
- (ii) prescribing guidelines, procedures, standards and methods for monitoring;
- (k) prescribing the nature, type, time period and format of data to be submitted under this Act;
- (l) prescribing the charges to be made by the Guyana Water Inc. for the laying and construction of house sewers (not being part of a collecting sewer system) and of the requisite appliances and accessories thereto;
- (m) prescribing the form of application for the provision of sewage services and water services;
- (n) regulating the types of fittings that may be used;
- (o) prescribing the conditions for the discontinuance of the supply of water in cases otherwise than as provided in this Act;
- (p) regulating the use of water from public stand-pipes;
- (q) providing for the proper use and conservation of water, including the prevention of waste,

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contamination or pollution of water;

- (r) providing for the inspection, testing and maintenance of any installation or apparatus and in respect of the fixing, testing, and renting of meters, and for any other services rendered by the Guyana Water Inc. in pursuance of its functions under this Act;
- (s) prescribing whatever fees and other charges need to be prescribed.

PART XV -Miscellaneous

Saving of existing rights. 94. (1) Nothing in this Act shall be construed to prejudice, alter or affect any right, privilege, freedom or usage possessed or exercised by law or by custom by any person.

(2) All land occupied or used by an Amerindian Community and all land necessary for the quiet enjoyment by the Amerindians of any Amerindian settlement shall be deemed to be lawfully occupied by them.

State bound. 95. This Act binds the State.

1. The seal of the Council shall be kept in the custody of the Secretary of the Council.
2. Every document purporting to be an instrument duly executed under seal of the Council shall be received in evidence and deemed without proof to be so executed unless the contrary is proved.
3. All documents other than those required by law to be under seal of the Council may be signified under the hand of the Chairman.
4. The Council shall consist of not less than seven nor more than nine persons who shall be persons recognised as knowledgeable in matters relating to drainage and irrigation, water management, conservation of natural resources, engineering, environmental economics and the hinterland.
5. (a) Subject to paragraph (b) the Minister may appoint the Chairman and the other members and they shall hold office for such period not exceeding two years as may be specified in their letters of appointment, but shall be eligible for re-appointment.
(b) Before appointing any person to the Council the Minister shall -
 - (i) consult such organisations and persons as represent the interests of consumers including domestic, commercial, industrial,

- agricultural and other users of water resources;
- (ii) require that person to declare the nature and extent of any interest he may have in the provision or use of any water resources;
 - (iii) satisfy himself that the person has no financial or other interest which would affect prejudicially his performance as a member of the Council.
 - (iv) satisfy himself that the person is a fit and proper person to be a member of the Council.
6. Any member of the Council who has an interest, directly or indirectly, in any matter before the Council shall disclose the nature of his interest to the Council and may not take part in the discussion without the permission of a majority of the other members of the Council present and any such disclosure and permission shall be recorded in the minutes of the Council.
7. The Minister may revoke the appointment of the Chairman or any member of the Council if that person -
- (a) becomes incapable of carrying out his duties;
 - (b) is guilty of misconduct;
 - (c) is absent, except on leave granted by the Council, from three consecutive meetings of the Council.
8. Where any member of the Council is convicted of a criminal offence other than a minor traffic violation, his appointment shall automatically terminate.

9. The Chairman and any other member of the Council may at any time resign his office by written notification addressed to the Minister and the resignation takes effect as from the date such written notification is received by the Minister.
10. The Council may determine their own procedure for meetings and the Council shall meet not less than quarterly and shall hold not less than one annual public meeting.
11. Five members of the Council shall constitute a quorum.

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SECOND SCHEDULE
PENALTIESsections 19, 43, 53, 55,
58, 61, 68 to 83

Paragraph

Prescribed Penalties

- (a) a fine of not less than ten thousand dollars nor more than forty thousand dollars;
- (b) a fine of not less than fifteen thousand dollars nor more than fifty thousand dollars and imprisonment for three months;
- (c) a fine of not less than twenty thousand dollars nor more than sixty thousand dollars and imprisonment for four months;
- (d) a fine of not less than thirty thousand dollars nor more than ninety thousand dollars and imprisonment for one year:

Provided that where the offender liable to a prescribed fine under any of the aforesaid paragraphs is a body corporate, the body corporate shall be liable to a fine of not less than twice such prescribed minimum fine nor more than twice such prescribed maximum fine, and, where the offender liable to a prescribed term of imprisonment under any of the aforesaid paragraphs is a body corporate, the body corporate shall be liable to twice such term of imprisonment.

EXPLANATORY MEMORANDUM

It is recognised that sustainability and equity must form the guiding principles for the management, protection and conservation of Guyana Water Resources and this Bill seeks to do this. The Environmental Protection Agency and Hydrometeorological Department are positioned and empowered together with the National Water Council established by this Bill to ensure that these guiding principles are followed.

The provisions set out in Part II establish the National Water Council as the custodian of the National Water Policy with powers for its development and implementation. The Council will be an advisory forum advising on, inter alia, the consistency of development plans and the management of water resources.

PART III deals with the Hydrometeorological Department of the Ministry of Agriculture which department will be strengthened to allow its existing national monitoring systems to be developed.

PART IV deals with ownership and use of water. The ownership of all water resources and the right to use, abstract, manage and control the flow of water are vested in the State, subject to all such existing rights of persons. A person who wants to abstract or divert surface water in an amount exceeding that prescribed must have a valid licence.

Part V introduces a new licensing regime to be administered by the Hydrometeorological Department. No licences may be granted to an individual unless he is a citizen of Guyana and no licences issued by the Department shall exceed a term of twenty-five years. Further the Department may attach conditions to the licence. The Department has power to rectify contraventions of the terms of a licence, suspend a licence or cancel a licence.

PART VI establishes the Minister power to make drought orders which he may only make on the recommendation of the Hydrometeorological Department.

PART VII imposes a duty on the Minister to exercise his power to appoint a public supplier for water and sewerage supply. The public supplier shall provide a supply of potable water for domestic purposes and for commercial and industrial purposes and for such other purposes as are prescribed. This part deals with conditions of appointment of the public supplier and questions of rate for the supply of water and sewerage services.

Part VIII contains provisions giving a public supplier the right of cutting trees and breaking up streets which may tend to interfere with its compliance of its licence obligations.

Part IX sets out the public supplier's rights and obligations in respect of the maintenance and repair of sewerage works and waterworks.

Part X deals with connection to the distribution system, cost thereof and disconnection.

Part XI prescribes the penalties for the various offences committed in violation of the Act.

Part XII gives special power to the Minister to compulsorily acquire land for and or on behalf of the public supplier.

Under Part XIII the Guyana Water Inc. shall be constituted as a public company limited by shares on or before the date this Act comes into force. To this company shall be transferred by a vesting order all the assets and liabilities of GUYWA and the Water Commissioners. The Minister may grant to the Guyana Water Inc. in the licence to be issued under this Act and at no charge easements and rights of way owned by the Government or any local government authority. GUYWA and the Water Commissioners shall stand dissolved on the coming into operation of this Act and most of their employees and operations taken over by the new company.

Part XIV gives the Minister the power to make such regulations as may be necessary for the purpose of giving effect to the provisions of the Act.

Part XV saves existing rights of any person and states that the Act binds the State.


Minister of Housing and Water.

