



REPUBLIC OF VANUATU

BILL FOR THE PUBLIC HEALTH (AMENDMENT) ACT NO. OF 2018

Arrangement of Sections

1	Amendment	2
2	Commencement.....	2

REPUBLIC OF VANUATU

BILL FOR THE PUBLIC HEALTH (AMENDMENT) ACT NO. OF 2018

An Act to amend the Public Health Act [CAP 234].

Be it enacted by the President and Parliament as follows-

1 Amendments

The Public Health Act [CAP 234] is amended as set out in the Schedule.

2 Commencement

- (1) Subject to subsection (2), this Act commences on the day on which it is published in the Gazette.
- (2) Sections 60, 65, 72 and 73A commence on a date to be prescribed by the Minister by Order.

SCHEDULE
AMENDMENTS OF THE PUBLIC HEALTH ACT
[CAP 234]

1 Section 1 (Definition of “sanitary system”)

- (a) Repeal the definition.
- (b) Delete “sanitary system” (wherever occurring in the Act), substitute “sanitation system”

2 Section 1 (Definitions of “building”, “drainage” “sewage” and “urban area”)

Repeal the definitions, substitute:

““building” means any structure designed for use by people, animals, machinery or chattels, whether the structure is temporary, permanent, moveable or immovable, with the exception of types of structures exempted by the Director;

“drainage” means the removal of rain or surface waters, including stormwater from buildings, premises or roads to the sea or the subsoil;

“sewage” means soil water, waste water and manufacturing or trade effluent and includes sewage that is only pre-treated;

“urban area” includes all of the following areas:

- (a) areas declared as a Municipality under section 2 of the Municipalities Act [CAP 126];
- (b) areas declared a physical planning areas under section 2 of the Physical Planning Act [CAP 193];
- (c) areas declared by the Minister for the purpose of section 64.

3 Section 1 (Definition of “water closet”)

Delete “drainage system”, substitute “sanitation system, treatment plant or central reticulated system”

4 Section 1

Insert in their correct alphabetical positions:

““alteration” in relation to a building, includes work done which:

- (a) alters the sanitation system of the building; or
- (b) involves a significant change to the structure of the building; or
- (c) involves the installation of a sanitation system or any part of a sanitation system; or
- (d) requires the modification or expansion of the sanitation system;

“approved sanitary device” means any sanitary device that has been approved by the Minister under section 72;

“approved sanitation system” means a sanitation system that meets the design and performance standards prescribed in the Building Code;

“Building Code” means the the National Building Code as prescribed under Part 2 of the Building Act No. 36 of 2013;

“central reticulated system” means a system of pipes that are used to convey sewage from a property to a treatment plant;

“construction” in relation to a building means any work of a structural nature to the building, and includes any excavation for foundations, sanitation systems or plumbing and includes alterations;

“drainage system” means a system for the drainage of rain or surface water including storm water and does not include the drainage or conveyance of sewage;

“manufacturing or trade effluent” means a liquid or other material that is discharged from a production, manufacturing or trade process or from a building that does not serve for human habitation;

“pre-treatment” means a treatment process undertaken on sewage that allows the discharge of that sewage into a sanitation system, a central reticulated system or a treatment plant;

“public drainage system” means:

- (a) a drainage system that is assigned to or is maintained by a Road Administrator, the Government or a local authority; or
- (b) a drainage system which is connected to a drainage system as described in paragraph (a) or which serves the public, including drainage systems that are situated on private land;

“rural area” means a Provincial Government Region as set out under section 1 of the Decentralization Act [CAP 230] but does not include areas declared as physical planning areas under section 2 of the Physical Planning Act [CAP 193];

“sanitary device” means a device comprising part of a sanitation system including sinks, toilets, pipes, septic tanks and other components for the disposal of sewage slop and soil water;

“sanitation facilities” means the total arrangement of toilets, urinals, sinks, washbasins or any other similar devices;

“sanitation services” means the installation, repair or maintenance of a sanitary device, sanitation facilities, a sanitation system, including the de-sludging of septic tanks and operation and maintenance of a central reticulated system or a treatment plant;

“sanitation system” means the total arrangement for the on-plot disposal of sewage including but not limited to sanitary devices, sanitation facilities and a final receptacle in the form of a septic tank but does not include a sewage disposal system that comprises a central reticulated system or a treatment plant;

“sanitation service provider” means a person who provides sanitation services;

“soil water” means water containing the discharges from a water-closet, urinal, slop-hopper, bidet, or any waste water containing excremental liquid or substance;

“treatment plant” means an installation, other than a sanitation system that pre-treats or treats sewage including the final receptacle of the sewage or sludge;”

5 Part 8

Repeal the Part, substitute

“PART 8 – SANITATION AND WASTE DISPOSAL

Division 1 Discharge of sewage

49. Definitions

In this Part, unless the contrary intention appears:

“building” means any building that is intended for human habitation or where humans are present;

“owner” means:

- (a) in the case of a sublease registered under the Land Leases Act [CAP 163] the proprietor of the sublease; and
- (b) in the case of a lease registered under the Land Leases Act [CAP 163] the lessee; and
- (c) in the case of a customary land that does not have a lease registered over it the custom owners; and
- (d) in the case of a strata titles registered under the Strata Titles Act [CAP 266]:
 - (i) where the sanitation system serves more than one strata within the same lease the lessee over which that strata is registered; or
 - (ii) where the sanitation system serves only one strata within the lease the proprietor of the strata.

50. Disposal of Sewage

A person must not discharge, treat or dispose of sewage except in the manner as set out under this Act.

51. Sewage and storm water discharge

- (1) The owner of a building must ensure that the sanitation system or treatment plant serving the building is constructed, operated and maintained in a manner that:
 - (a) prevents sewage from being discharged, flowing or seeping into:
 - (i) groundwater; or
 - (ii) a drainage system; or
 - (iii) a public drainage system; and
 - (b) prevents rain or surface water including storm water from entering the sanitation system.
- (2) The owner of a building must ensure that the drainage system is constructed, operated and maintained in a manner that prevents rain or surface water including storm water from being discharged, flowing or seeping into the sanitation system.
- (3) The occurrence of sewage from the respective plot, lot or building in a drainage system or a public drainage system or the presence of rain or surface water including storm water from the respective plot, lot or building in a sanitation system is to be considered prima facie evidence of a violation of subsection (1) or (2) respectively.
- (4) A person who fails to comply with subsection (1) or (2) commits an offence punishable on conviction:
 - (a) in the case where the building is used for residential purposes by a fine of not exceeding VT5,000,000 or by imprisonment for a term not exceeding 12 months, or both; or
 - (b) in the case where the building is not used for residential purpose- by a fine not exceeding VT10,000,000.

Division 2 Central Reticulated Systems and Treatment Plants

52. Permit to operate a central reticulated system or a treatment plant

- (1) A person must not operate a central reticulated system or a treatment plant unless he or she is issued with a valid permit under this section.
- (2) An application for a permit under this section must be made to the Director:
 - (a) in the prescribed form; and
 - (b) be accompanied with prescribed fees including but not limited to:
 - (i) an application fee; and
 - (ii) a permit fee; and
 - (c) be accompanied with the applicant's plans of operation and maintenance of the treatment plant with reference to the type of the system, its capacity, the method of treatment and the manner of disposal of the sewage, the treated wastewater and the sludge.
- (3) An applicant must provide the Director with any further information required in connection with the application as the Director may require.
- (4) The Director may grant a permit under this section if he or she is satisfied that the operation of the central reticulated system or the treatment plant will not cause a health hazard or nuisance and that the operation and maintenance plan is adequate to ensure that a health hazard or nuisance does not exist.
- (5) A permit under this section is valid for a term of not more than 5 years, and may be renewed.
- (6) Subject to subsection (7), the Director may on the recommendation of an authorized officer:
 - (a) impose additional conditions to an existing permit or provide instructions to the permit holder in connection with the permit if

- the central reticulated system or the treatment plant causes or is likely to cause a health hazard or nuisance; or
- (b) order the suspension of an existing permit if the central reticulated system or the treatment plant causes or is likely to cause health hazard a nuisance.
- (7) The Director must provide the permit holder a reasonable opportunity to show cause why the proposed action should not be taken.
- (8) If a treatment plant causes a serious health hazard, which, in the opinion of the Director cannot be addressed by any other means, the Director may:
- (a) order the immediate suspension of the permit for the operation of the treatment plant; or
- (b) order the closing of premises discharging into the treatment plant and determine the conditions to be met for the renewal of the permit and the reopening of the premises.
- (9) A person who operates a central reticulated system or a treatment plant without a valid permit, commits an offence punishable on conviction by a fine of not exceeding VT20,000,000.
- 53. Permission to discharge into a central reticulated system**
- (1) Where a central reticulated system has been installed in any area, the relevant local authority may:
- (a) instruct by written notice that any building is to be connected to the central reticulated system; and
- (b) impose conditions relating to the composition of the discharge into the central reticulated system, including the installation of pre-treatment facilities.
- (2) In addition to subsection (1), the owner of a building in that area may apply to the relevant local authority to be connected to the central reticulated system.

- (3) The local authority under subsection (2) may approve or reject an application taking into account:
- (a) the proximity of the building to the central reticulated system; and
 - (b) the volume of the discharge and its composition; and
 - (c) any other town planning consideration; and
 - (d) any other relevant matters.
- (4) The local authority may impose conditions on the volume or composition of any discharge into a central reticulated system, including conditions applicable to manufacturing or trade effluent and the existence of pre-treatment facilities that would allow such discharge into a central reticulated system or a treatment plant.
- (5) The local authority may, by the gazettal of by-laws, determine the fee to be paid for the connection to the central reticulated system and for its usage.
- (6) The owner of a building which has received a notice to connect under subsection (1) or permission to connect to a central reticulated system under subsection (2) must ensure that:
- (a) the conditions of the connection to the central reticulated system are observed at all times; and
 - (b) the sanitation system within the building is constructed, operated and maintained in a manner that prevents any and all sewage occurring on his or her building from being discharged to any place other than the central reticulated system; and
 - (c) pre-treatment facilities, where required are of an approved type and are operating at all times; and
 - (d) the drainage system of the building is constructed, operated and maintained in a manner that prevents rain or surface water including storm water from being discharged, flowing or seeping into the central reticulated system.

- (7) A person that fails to comply with an instruction to connect, a condition of approval under subsection (4) or who connects or allows a discharge into a central reticulated system without permission or without pre-treatment where required, commits an offence punishable on conviction:
- (a) in the case where the building is used for residential purposes - by a fine of not exceeding VT5,000,000 or by imprisonment for a term not exceeding 12 months, or both; or
 - (b) in the case where the building is not used for residential purposes - by a fine of not exceeding VT10,000,000 or by imprisonment for a term not exceeding 12 months, or both.

Division 3 Sanitation Board

54. Sanitation Board

- (1) The Sanitation Board is established.
- (2) The Board consists of:
- (a) the Director of the Department of Public Health as the Chairperson; and
 - (b) the Director of the Department of Environmental Protection and Conservation as Deputy Chairperson; and
 - (c) a person nominated by the Director of the Department of Local Authorities who is either a staff member of the Department or of a local authority; and
 - (d) an environmental health officer nominated by the Director of the Department of Public Health; and
 - (e) a staff member of the Department of Environmental Protection and Conservation nominated by the Director of the Department of Environmental Protection and Conservation; and
 - (f) a staff member of the Department of Public Works nominated by the Director of Public Works; and

- (g) a person nominated by the National Council of the Chambers of Commerce and Industry, who is engaged in providing sanitation services.
- (3) A member nominated under paragraphs (2)(c),(d),(e),(f) and (g) is to be appointed by the Minister by Order for a period of 3 years and is eligible for re-appointment.
- (4) Despite subsection (3), a person ceases to be a member of the Board if he or she:
 - (a) in the case of a member nominated under paragraph (2)(c) ceases to be employed as a staff of the Department of Local Authorities or of a local authority; or
 - (b) in the case of a member nominated under paragraph (2)(d) ceases to be employed as an environmental health officer; or
 - (c) in the case of a member nominated under paragraph (2)(e) ceases to be employed as a staff of the Department of Environmental Protections and Conservation; or
 - (d) in the case of a member nominated under paragraph (2)(f) ceases to be employed as a staff of the Department of Public Works; or
 - (e) in the case of a member nominated under paragraph (2)(g) ceases to be engaged in the provisions of sanitation services.
- (5) A member of the Board appointed under paragraph (2)(c), (d), (e) or (f) who is suspended by his or her employer is deemed to be suspended as a member of the Board.
- (6) If a member has been suspended, the persons making the nominations under paragraph (2)(c),(d), (e) or (f) may nominate an alternate member to attend the meetings of the Board until such time the suspension of the member lapses.
- (7) To avoid doubt, if the position of the Director appointed under paragraph (2)(a) or (b) is vacant, the Acting Director is deemed to be a member of the Board.

55. Functions of the Board

The Board has the following functions:

- (a) to advise and make recommendations to the Minister on design and performance standards for sanitation systems, treatment plants and central reticulated systems; and
- (b) to advise and make recommendations to the Minister on the types of sanitary devices and standards for sanitary devices that may be imported, sold or installed in Vanuatu; and
- (c) to advise and make recommendations to the Minister on matters involving the qualification, certification, registration or licensing of sanitation service providers; and
- (d) to advise the Minister on Regulations required to be prescribed under this Part; and
- (e) to advise the Minister on policies relating to sanitation; and
- (f) to carry out any other function as required under this Act or any other Act.

56. Meetings

- (1) The Board is to meet at the request of the Chairperson at least 2 times a year and may hold such other meetings as are necessary for the proper performance of its functions.
- (2) The Chairperson of the Board or Deputy Chairperson is to preside at all meetings of the Board.
- (3) At a meeting of the Board, a quorum consists of:
 - (a) the Chairperson or in his or her absence, the Deputy Chairperson; and
 - (b) 3 other members.

- (4) The Board may meet despite any vacancies in its membership so long as a quorum is present.
- (5) A member present at a meeting has 1 vote and questions arising at a meeting are to be decided by a simple majority of votes.
- (6) Subject to this Act, the Board is to determine and regulate its own procedures.
- (7) The Minister may prescribe by Order, the sitting allowances of the members of the Board.

Division 4 Sanitation in urban areas

57. Application

This Division applies to:

- (a) buildings located within an urban area; and
- (b) buildings located within rural areas to which a declaration made under section 64 relates; and
- (c) types of buildings located in a rural area to which a declaration made under section 64 relates.

58. Discharge of Sewage

- (1) Sewage must only be discharged into a sanitation system, a central reticulated system or a treatment plant.
- (2) A sanitation system, central reticulated system and treatment plant under subsection (1) must be constructed, operated and maintained in compliance with the provisions of this Act.

59. Suitable and adequate sanitation systems

- (1) The owner of a building must ensure that his or her building:
 - (a) has within its curtilage a sanitation system; or

- (b) is connected to a central reticulated system or a treatment plant that is adequate and suitable for the sewage discharges from the building.
- (2) In addition to subsection (1), the owner or occupier of a building must ensure that:
 - (a) the sanitation system and the sanitary devices or sanitation facilities of that building are properly kept and maintained; and
 - (b) the septic tank is periodically de-sludged.
- (3) For the purposes of subsection (2) “properly kept and maintained” means that the sanitation system and sanitary devices or sanitation facilities are clean, do not emit odours and have no sewage seeping out of them.
- (4) If on inspection an authorized officer is of the opinion that the owner of a building has not complied with requirements under subsection (1), the authorized officer may by written notice direct the owner of the building to:
 - (a) install, within a reasonable time, a sanitation system for the use of the building; or
 - (b) connect the building to a central reticulated system, where available or to a treatment plant; or
 - (c) rehabilitate the existing sanitation system or the treatment plant to the standards set in the Building Act No. 36 of 2013.
- (5) If on inspection an authorized officer is of the opinion that the owner or occupier of a building has not complied with requirements under subsection (2), the authorized officer may by written notice direct the owner or occupier of the building to, within a reasonable time:
 - (a) take remedial steps to ensure that the system is properly kept and maintained; and
 - (b) de-sludge the septic tank.

- (6) The Director may, on the recommendation of an authorized officer, order the immediate closure of a building if:
- (a) the owner or occupier of that building for which a notice under subsection (4) or (5) has been issued, fails to comply with the notice; or
 - (b) the continued occupation of that building is or is likely to create a health hazard or a nuisance.
- (7) A person must not enter, inhabit or use a building for any purpose where an order for closure has been issued by the Director under subsection (6).
- (8) A person who fails to comply with this section, commits an offence punishable on conviction:
- (a) in the case where the building is used for residential purposes - by a fine of not exceeding VT 5,000,000 or by imprisonment for a term not exceeding 12 months, or both; or
 - (b) in the case where the building is not used for residential purposes - by a fine of not exceeding VT10,000,000 or by imprisonment for a term not exceeding 12 months, or both.
- (9) This section does not apply to buildings intended for human habitation and occupied for this purpose that do not have a sanitation system within the confines of that building on the commencement of this section.
- (10) Despite subsection (9), the Director may direct, or order, that certain buildings to which subsection (9) applies will from a date specified in the order, be subject to the provisions of this section.

60. Installation of approved sanitation systems

- (1) A person must not construct a building unless he or she:
- (a) has installed an approved sanitation system that meets the standards set for the use of that building; or

- (b) has connected the building, with a permit under this Act to a central reticulated system or a treatment plant suitable for the use of the building.
- (2) A person must not occupy a building constructed after the commencement of this section unless an authorized officer has certified in writing that:
 - (a) an approved sanitation system that meets the standards set for the use of that building has been installed; or
 - (b) the building is connected, with a permit under this Act to a central reticulated system or a treatment plant suitable for the use of the building.
- (3) The Director may, on the recommendation of an authorized officer, order the immediate closure of a building if:
 - (a) a building is occupied without a certificate issued under subsection (2); or
 - (b) the continued occupation of the building without a proper and adequate sanitation system is or is likely to create a health hazard or nuisance.
- (4) A person must not enter, inhabit or use a building for any purpose where an order for closure has been issued by the Director under subsection (3).
- (5) A person who fails to comply with subsection (2) or (4), commits an offence punishable on conviction:
 - (a) in the case where the building is used for residential purposes - by a fine of not exceeding VT5,000,000 or by imprisonment for a term not exceeding 12 months, or both; or
 - (b) in the case where the building is not used for residential purposes - by a fine of not exceeding VT10,000,000 or by imprisonment for a term not exceeding 12 months, or both.

61. Buildings to be provided with drains

- (1) All buildings must be provided with proper drains for the efficient carrying off of rain or surface water including storm water to the satisfaction of the local authority.
- (2) If on inspection an authorized officer determines that a building under subsection (1) has not been provided with proper drains, he or she must by way of written notice, direct the owner of the building to install, within a reasonable time, proper drains for the efficient carrying off of rain or surface water including storm water.
- (3) The Director may, on the recommendation of an authorized officer, order the immediate closure of a building if:
 - (a) the owner or occupier of that building for which a notice under subsection (2) has been issued, fails to comply with the notice; or
 - (b) the continued occupation of the building without a proper drains is or is likely to create a health hazard or nuisance.
- (4) A person must not enter, inhabit or use a building for any purpose where an order for closure has been issued by the Director under subsection (3).
- (5) A person who fails to comply with a notice issued under subsection (2) or occupies a building in contravention of subsection (4), commits an offence punishable on conviction:
 - (a) in the case where the building is used for residential purposes - by a fine of not exceeding VT5,000,000 or by imprisonment for a term not exceeding 12 months, or both; or
 - (b) in the case where the building is not used for residential purposes - by a fine of not exceeding VT10,000,000 or by imprisonment for a term not exceeding 12 months, or both.

Division 5 Sanitation in rural areas

62. Application

This Division applies to buildings located in a rural area.

63. Provision of sanitation in rural areas

A Provincial Government Council is to take all necessary measures to ensure that the inhabitants of rural areas in that province have access to proper and adequate sanitation facilities.

64. Declaration of certain buildings

(1) The Minister on the recommendation of the Director, may, after consulting the relevant Provincial Government Council, declare by notice published in the Gazette that:

- (a) all or types of buildings; or
- (b) buildings used for a particular purpose,

which are located in a certain rural area, in some rural areas or in all of the rural areas of the country, are to be subject to the provisions of Division 4.

(2) A declaration under subsection (1) must contain the following information:

- (a) where the declaration does not refer to the whole country - reference to a map, or description of that area; and
- (b) the date from which the provisions of Division 4 are to apply.

Division 6 Sanitation facilities and sanitary devices

65. Installation of approved sanitary devices

(1) A person must not occupy a building unless the building has been installed with approved sanitary devices.

(2) A person must not install in any building sanitary devices that are not approved sanitary devices.

(3) A person who fails to comply with subsection (1) or (2), commits an offence punishable on conviction:

- (a) in the case where the building is used for residential purposes by a fine of not exceeding VT5,000,000; or

- (b) in the case where the building is not used for residential purposes - by a fine of not exceeding VT10,000,000.
- (4) If on inspection an authorized officer determines that a building under subsection (1) or (2) has not been provided with approved sanitary devices, he or she must by way of written notice, direct the owner of the building to install, within a reasonable time, approved sanitary devices.
- (5) The Director may, on the recommendation of an authorized officer, order the immediate closure of a building if:
 - (a) the owner or occupier of that building for which a notice under subsection (4) has been issued, fails to comply with the notice; or
 - (b) the continued occupation of the building without approved sanitary devices is or is likely to create a health hazard.
- (6) A person must not enter, inhabit or use a building for any purpose where an order for closure has been issued by the Director under subsection (5) over that building.
- (7) A person who fails to comply with a notice issued under subsection (4) or occupies a building in contravention of subsection (6), commits an offence punishable on conviction:
 - (a) in the case where the building is used for residential purposes - by a fine of not exceeding VT5,000,000 or by imprisonment for a term not exceeding 12 months, or both; or
 - (b) in the case where the building is not used for residential purposes - by a fine of not exceeding VT10,000,000 or by imprisonment for a term not exceeding 12 months, or both.
- 66. Adequate sanitation facilities in places where people convene**
 - (1) All hotels, resorts, hospitals, medical facilities, Provincial Government centres, schools, churches, commercial buildings and other places where people convene must provide and maintain sufficient, adequate and clean sanitation facilities, including an adequate number of toilets in a suitable

location for use by persons frequenting the building and accessible to them.

- (2) For the purposes of subsection (1), sufficient, adequate and clean sanitation facilities means sanitation facilities that:
- (a) meet the requirements of this Act or Regulations; and
 - (b) are maintained in a manner that does not cause a health hazard or nuisance and are accessible to the public.
- (3) If on inspection an authorized officer determines that a building under subsection (1) does not maintain sufficient, adequate and clean sanitation facilities, including toilets as stipulated in subsection (1) he or she must by way of written notice, direct the owner of the building to within a reasonable time specified in the notice:
- (a) install adequate and clean sanitation facilities, including a sufficient number of toilets that are accessible to the public; and
 - (b) ensure that the facilities are kept and maintained so as not to cause a health hazard or nuisance.
- (4) The Director may, on the recommendation of an authorized officer, order the immediate closure of a building if:
- (a) the owner or occupier of that building for which a notice under subsection (3) has been issued, fails to comply with the notice; or
 - (b) the continued occupation of the building without the sanitation facilities a proper and adequate sanitation system is or is likely to create a health hazard.
- (5) A person must not enter, inhabit or use a building for any purpose where an order for closure has been issued by the Director under subsection (4) over that building.
- (6) A person who fails to comply with a notice issued under subsection (3) or occupies a building in contravention of subsection (5), commits an offence punishable on conviction:

- (a) in the case where the building is used for residential purposes - by a fine of not exceeding VT5,000,000 or by imprisonment for a term not exceeding 12 months, or both; or
- (b) in the case where the building is not used for residential purposes - by a fine of not exceeding VT10,000,000 or by imprisonment for a term not exceeding 12 months, or both.

67. Obligation to provide toilets

- (1) For the purposes of this section, “sufficient toilet accommodations” means that the premises has a sufficient number of toilets of a type which is effective and suitable having regard to the circumstances of the case
- (2) All premises must have sufficient toilet accommodations.
- (3) If on inspection an authorized officer determines that a premises does not have sufficient toilet accommodations, he or she must by way of written notice, direct the owner of the premises to:
 - (a) provide such number of toilets, or toilets of such type; or
 - (b) do such other thing to provide effective and sufficient toilet accommodations,within the reasonable time specified in the notice.
- (4) A person who fails to comply with a notice issued under subsection (3) commits an offence punishable on conviction:
 - (a) in the case where the building is used for residential purposes - by a fine of not exceeding VT5,000,000 or by imprisonment for a term not exceeding 12 months, or both; or
 - (b) in the case where the building is not used for residential purposes - by a fine of not exceeding VT10,000,000 or by imprisonment for a term not exceeding 12 months, or both.
- (5) In addition to subsection (3), a local authority may execute, or cause to be executed, such work as may be necessary to satisfy the requirements of

such notice, and may recover any expenses incurred as a result of such work from the person to whom the notice applies.

68. Public toilet

In every municipal council area or rural area, a municipal council or a Provincial Government Council must provide and maintain in proper and convenient locations, sufficient toilets for public use and may charge such fees necessary for the maintenance of such toilets.

69. Latrine not to threaten source of water supply

- (1) A person must not erect or cause to be erected any latrine:
 - (a) within 30 metres from any well, dam, reservoir, river, creek, stream, or water course which is used as a source of domestic water supply; or
 - (b) that contaminates or may, in the view of an authorized officer, contaminate any aquifer or groundwater that is used for domestic water supply.
- (2) Despite subsection (1), the Minister may, after consultation with the Sanitation Board, prescribe by Regulation the types of latrines that may be erected within 30 meters to such well, dam, reservoir, river, creek, stream, or water course.
- (3) If on inspection an authorized officer determines that a latrine is erected in contravention of subsection (1), he or she must by way of written notice, direct the person who erected or caused to be erected that latrine:
 - (a) to remove or reconstruct the latrine; or
 - (b) otherwise carry out such other works so as to eliminate the contamination risk,within a reasonable time specified in the notice.

- (4) A person who fails to comply with a notice issued under subsection (3), commits an offence punishable on conviction by a fine not exceeding VT 1,000,000 or by imprisonment for a term not exceeding 5 years or both.
- (5) In addition to subsection (4), the local authority may execute, or cause to be executed, any work necessary to satisfy the requirements of such notice, and may recover any expenses incurred as a result of such work, from the person to whom the notice applies.

70. Sanitation facilities used in common

- (1) This section applies if sanitation facilities are used in common by the occupiers of two or more premises or by other persons.
- (2) All sanitation facilities or the walls, floors, seats or fittings must be maintained to the satisfaction of an authorized officer and must not be in such a state as to be a health hazard or a nuisance.
- (3) If the sanitation facilities are maintained in contravention of subsection (2), the authorized officer is to issue a notice to the occupiers of the premises using the facilities to maintain the same to the satisfaction of an authorized officer such as not to become a health hazard or a nuisance.
- (4) Any person who fails to comply with a notice issued under subsection (3), commits an offence punishable on conviction by a fine not exceeding VT 100,000.
- (5) Any person who injures or improperly fouls any such toilet or toilet accommodation or anything used in connection with such toilet is guilty of an offence punishable on conviction by a fine not exceeding VT 500,000 or by imprisonment for a term not exceeding 12 months or both.

Division 7 Standards

71. Approved designs and standards of sanitation systems

- (1) The Minister may on the recommendation of the Sanitation Board, by Regulation, prescribe approved designs and performance standards for sanitation systems, treatment plants or central reticulated systems.

72. Approved sanitary devices

- (1) Subject to subsection (2), the Minister may on the recommendation of the Sanitation Board, by Regulation, prescribe the approved sanitary devices that may be imported, sold or installed in Vanuatu.
- (2) Only sanitary devices that are durable and will not cause a health hazard or a nuisance may be prescribed as approved sanitary devices.
- (3) Despite this section, a sanitary device that has been installed in any building prior to the commencement of this section is deemed to be an approved sanitary device.
- (4) A person who fails to comply with subsection (1), commits an offence punishable on conviction by a fine of not exceeding VT5,000,000 or by imprisonment for a term not exceeding 12 months, or both.

73. Registry of sanitary devices

The Director is to keep and maintain a registry of all approved sanitary devices.

Division 8 Service providers

73A. Licensing of sanitation service providers

- (1) The Minister may on the recommendation of the Sanitation Board, by Regulation, prescribe the educational and other qualifications for sanitation service providers or types and categories of such service providers.
- (2) A person who intends to be a sanitation service provider is to apply to the Director for a licence.
- (3) An application made under subsection (2) must be made in the prescribed form and be accompanied with the prescribed application fee.
- (4) The Director may, if he or she considers necessary, require any additional information from an applicant.
- (5) The Director may issue a licence if:

- (a) he or she is satisfied that the applicant has met all the requirements in this Act and the Regulations; and
 - (b) the prescribed licence fee has been paid.
- (6) The Director is to keep and maintain a registry containing the details of all persons issued with a licence under this section.
- (7) A person who provides sanitation services without a licence issued under this section commits an offence and is liable on conviction to a fine not exceeding VT5,000,000 or by imprisonment for a term not exceeding 12 months, or both.
- (8) The Director may on the recommendation of an authorized officer, suspend or cancel a licence if:
 - (a) the service provider does not operate in accordance with the provisions of this Act or of any other Act; or
 - (b) the service provider exercises gross negligence in his or her work.
- (9) A suspension under subsection (8) may be for a period of not more than 14 days.
- (10) In addition to subsection (9), the Director must provide a sanitation service provider an opportunity to respond to the allegations before deciding whether to lift the suspension or cancel the licence.
- (11) The Director must not cancel a licence of a sanitation service provider unless the sanitation service provider is given an opportunity to respond to the allegations.

Division 9 Compliance

73B. Prevention of health hazard or nuisance from sanitation system

- (1) Any person must not cause or permit any person to cause a sanitation system, a treatment plant, a central reticulated system, sanitation facilities or a sanitary device to be a nuisance, injurious or dangerous to health by wilfully destroying or damaging, or by otherwise interfering with:

- (a) a sanitation system, a treatment plant, a central reticulated system, sanitation facilities or a sanitary device; or
 - (b) any water supply, apparatus, pipe or work connected to it.
- (2) A person who contravenes subsection (1), commits an offence punishable on conviction by a fine not exceeding VT 5,000,000 or by imprisonment for a term not exceeding 12 months or both.

73C. Hazard causing sanitation systems

- (1) Despite Part 4, if a sanitation system, a treatment plant, a central reticulated system, a sanitation facility or a sanitary device is constructed, situated, operated or maintained in such a manner so as to:
 - (a) cause or likely to cause a health or environmental hazard or be a nuisance; or
 - (b) be offensive to public decency,

the authorized officer may issue a notice to the owner or occupier of the building requiring him or her to remove, reconstruct, screen or otherwise carry out such other works so as to eliminate the health or environmental hazard, abate the nuisance or remove the offence against public decency.
- (2) The Director may, on the recommendation of an authorized officer, order the immediate closure of a building if:
 - (a) the owner or occupier of that building for which a notice under subsection (1) has been issued, fails to comply with the notice; or
 - (b) the continued occupation of the building without a proper and adequate sanitation system is or is likely to create a health or environmental hazard.
- (3) A person must not enter, inhabit or use a building for any purpose where an order for closure has been issued by the Director under subsection (2) over that building.

- (4) A person who fails to comply with a notice issued under subsection (1) or occupies a building in contravention of subsection (3), commits an offence punishable on conviction:
- (a) in the case where the building is used for residential purposes - by a fine of not exceeding VT5,000,000 or by imprisonment for a term not exceeding 12 months, or both; or
 - (b) in the case where the building is not used for residential purposes - by a fine of not exceeding VT10,000,000 or by imprisonment for a term not exceeding 12 months, or both.

73D. Inspection

- (1) For the purposes of enforcing this Act or Regulations, an authorized officer may at any time:
- (a) enter any plot or building for the purposes of inspecting a treatment plant, central reticulated system, sanitation system, sanitation facility or sanitary device of that premises; or
 - (b) inspect, examine, sample or perform any kind of test or examination on any treatment plant, central reticulated system, sanitation system, sanitation facility or sanitary device or any other areas within the premises; or
 - (c) take samples of any liquids or solids; or
 - (d) take any photo, sketch or video necessary for record keeping purposes of the inspection; or
 - (e) make any measurement or conduct any interviews necessary for the purposes of inspection; or
 - (f) cut, remove, detain, seize, recall, or destroy any vegetation necessary to inspect the treatment plant, central reticulated system, sanitation system, sanitation facility or sanitary device within a premises; or

- (g) permanently or otherwise mark, brand, dye or label any treatment plant, central reticulated system, sanitation system, sanitation facility or sanitary device for the purposes of inspection for the purposes of this Act; or
 - (h) make or impose any relevant order, instruction or condition; or
 - (i) interrupt, suspend or prohibit actions or operations necessary for the inspection of any treatment plant, central reticulated system, sanitation system, sanitation facility or sanitary device.
- (2) A civil or criminal liability action is not to be taken against an authorized officer in respect of anything done or omitted to be done by the officer in good faith in the execution or purported execution of his or her functions and powers under this Act.

73E. Examination of sanitation system

- (1) An authorized officer may examine and take samples from any:
- (a) sanitation system; or
 - (b) sanitation facility; or
 - (c) treatment plant (including a pre-treatment plant); or
 - (d) central reticulated system; or
 - (e) septic tank, cesspool, trap, siphon or any other sanitary device; or
 - (f) water supply apparatus, pipe or work connected to any of the systems, plants, facilities or devices listed in paragraphs (a) to (e),
- located on any premises, and may cause the ground to be opened in any place which may appear to the authorized officer necessary for the purpose of this section.
- (2) If any work referred to in subsection (1) is found on examination to be in proper order, the authorized officer is to cause the work to be reinstated

and made good as soon as possible and is to defray the expenses of the examination and the reinstating and making good of the work. However, if on examination any such work is found not to be in proper order, the authorized officer may:

- (a) recover from the owner of the premises, or, where the owner is absent from Vanuatu or cannot be found or ascertained by the authorized officer, from the occupier of the premises, the expenses of such examination; and
 - (b) cause a notice to be served upon the owner of such premises or, in the circumstances specified in paragraph (a), the occupier of the premises, requiring him or her to repair or otherwise put in good order such work within such time as may be specified in the notice.
- (3) If the person on whom a notice is served under paragraph (2)(b) fails to comply with any of the requirements of that notice, the authorized officer may execute, or cause to be executed, any work necessary to satisfy the requirements of such notice, and may recover any expenses that is incurred from such person.
- (4) If the person upon whom a notice is served under paragraph (2)(b) fails to comply with any of the requirements specified in such notice, he or she is commits an offence punishable on conviction to a fine not exceeding VT 1,000,000 or to imprisonment for a term not exceeding 12 months or both.

73F. Penalty Notice

- (1) The Director may serve a penalty notice on a person if it appears to the Director that the person has committed an offence under any provision of this Act or the Regulations.
- (2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a Court, the person may pay within a time and to a person specified in the notice the amount of penalty prescribed by the Regulations for the offence if dealt with under this section.
- (3) A penalty notice may be served personally or by post.

- (4) If the amount of penalty prescribed for the purposes of this section for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence.
- (5) Payment under this section is not to be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil proceeding arising out of the same occurrence.
- (6) The Regulations may:
 - (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence; and
 - (b) prescribe the amount of penalty payable for the offence if dealt with under this section; and
 - (c) prescribe different amounts of penalties for different offences or classes of offences.
- (7) The amount of a penalty prescribed under this section for an offence must not exceed the maximum amount of penalty prescribed under this Act.
- (8) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.

73G. Additional Court orders

- (1) The Court may, when convicting a person for an offence under this Part and having regard to the nature of the offence and the circumstances surrounding its commission, in addition to any penalty imposed, make an order:
 - (a) to prohibit the person from doing any act or engaging in any activity or undertaking that may result in the continuation or repetition of the offence; or
 - (b) directing the person to pay to the local authority, costs and other expenses associated with any inspection or examination undertaken in respect of the offence; or

- (c) requiring the person to comply with any other condition the Court considers appropriate in the circumstances.
- (2) If a person is convicted of an offence under this Act, the Court may when sentencing the offender and on the application by a person aggrieved, order the convicted person to pay to the person aggrieved:
 - (a) compensation for loss or damage to property or income proved to have been suffered by that person as a result of the commission of the offence; or
 - (b) the cost of any preventative or remedial action proved to have been reasonably taken or caused to be taken by that person as a result of the act or omission that constituted the offence.
- (3) An order under paragraph (1)(a) or (b) is enforceable as if it were an injunction.
- (4) An order under this section relating to payment of money is enforceable as if it were a judgment debt and recoverable in Court.
- (5) If a person fails to comply with a Court order made under this section relating to restoration, improvement or remedial action of an area, the Council may undertake the restoration, improvement or remediation of the area, and the cost is to become a debt recoverable in Court.

Division 10 Waste Disposal

73H. Urban buildings to be provided with refuse bins

- (1) In every urban area, every new and existing building intended for human occupation must be provided with a sufficient refuse bin to the satisfaction of the municipal council.
- (2) The municipal council may by written notice require an owner or occupier of the building within a reasonable time specified in the notice to provide such additional number of refuse bins after having regard to the number and description of the persons occupying or using such building.

73I. Public refuse bins

In every urban area, the municipal council is to provide and maintain in proper and convenient situations, sufficient refuse bins for the public use.

73J. Interference with refuse bins and refuse tips prohibited

- (1) A person must not, without lawful authority or excuse, sort over, disturb, remove or otherwise interfere with:
 - (a) the contents of any refuse bin placed in any street for the purpose of its contents being removed by the local authority; or
 - (b) refuse deposited upon any refuse tip or other place provided by the local authority for the deposit of refuse.
- (2) Any person who, without lawful authority or excuse, contravenes with subsection (1) commits an offence punishable on conviction by a fine not exceeding VT 50,000.”

6 Paragraph 113(p)

- (a) Delete “sewerage system”, substitute “sanitation system”
- (b) Delete “, the licensing of plumbers and drainlayers”

7 After paragraph 113(p)

Insert

- “(pa) after consulting the Sanitation Board, the design and performance standards for sanitation systems for buildings;
- (pb) after consulting the Sanitation Board, the design and performance standards and rules for the operation of a central reticulated system and treatment plant;
- (pc) after consulting the Sanitation Board, the rules on the maintenance of sanitation systems including on the frequency septic tanks must be de-sludged;
- (pd) prescribe standards for proper and adequate sanitations systems for rural areas;

- (pe) prescribe the types of latrines that may be erected within 30 meters of a well, dam reservoir, river, creek, stream, or water course;
- (pf) after consulting the Sanitation Board, the approval of sanitary devices for use in Vanuatu, including prescribing standards for sanitary devices that may be imported, sold or installed in Vanuatu;
- (pg) after consulting the Sanitation Board, the educational and other qualifications for sanitation service providers as well as the types and categories of such sanitation providers;
- (ph) prescribe matters relating to the inspection of sanitation systems, sanitation devices and sanitation facilities by authorized officers;
- (pi) prescribe matters relating to the issuance of closure notices;
- (pj) prescribe additional matters relating to inspections and examinations carried out by authorized officers;”

8 Transitional – Existing buildings, lots or plots from which sewage is discharged or flows into a drainage system or a public drainage system

- (1) The owner of a building, lot or plot from which sewage is discharged or flows into a drainage system or a public drainage system immediately prior to the commencement of this section is to apply to the Director within 60 days of the commencement of this section to temporarily exempt the building from the requirements of this Act.
- (2) To avoid doubt, it is immaterial if the discharge, flow or connection was done by permit or licence or any other authorisation.
- (3) If the Director issues a temporary exemption, the owner of a building that is used for residential purposes must within 6 months from the date the temporary exemption was granted:
 - (a) install a sanitation system that has met the requirements of this Act and Regulations; or

- (b) connect to a treatment plant that has met the requirements of this Act and Regulations; or
 - (c) connect to a central reticulated system that meets the requirements of this Act and Regulations.
- (4) If the Director issues a temporary exemption, the owner of a building that is not used for residential purposes must within 12 months from the date the temporary exemption was granted under take the requirements under paragraphs (a), (b) and (c).
- (5) A person who fails to comply with subsection (3) or (4) commits an offence punishable on conviction:
 - (a) in the case where the building is used for residential purposes - by a fine of not exceeding VT5,000,000 or by imprisonment for a term not exceeding 12 months, or both; or
 - (b) in the case where the building is not used for residential purposes - by a fine of not exceeding VT10,000,000 or by imprisonment for a term not exceeding 12 months, or both.
- (6) The Director, upon the recommendation of an authorized officer, may direct that no person may occupy the building until works are carried out so as to prevent sewage from being discharged, flowing or seeping into the drainage system.
- (7) A person must not enter, inhabit or use a building for any purpose where an order for closure has been issued by the Director under subsection (6) over that building.
- (8) A person who occupies a building in contravention of a direction pursuant to subsection (6) commits an offence punishable on conviction:
 - (a) if the building is a residential building - by a fine of not exceeding VT5,000,000 or by imprisonment for a term not exceeding 12 months, or both; or

- (b) if the building is not a residential building - by a fine of not exceeding VT10,000,000 or by imprisonment for a term not exceeding 12 months, or both.
- (9) A Court may, in addition to the penalty set out under subsection (8), impose a daily fine until the violation ceases in an amount not exceeding VT10,000 in the case of a residential building and VT50,000 in the case of a building which is not a residential building.
- (10) For the purposes of subsections (8) and (9), “residential building” means a building constructed for the purposes of human habitation or used for human habitation but does not include hotels, resorts, hostels or related buildings.

9 Transitional – Application of sections 60 and 65

- (1) Section 60 and 65 apply only to buildings for which construction has begun after the commencement these sections.
- (2) For the purpose of this section “ construction” means that the construction of a building has progressed beyond site preparation and earthworks, and has been active in the 6 months prior to the commencement of this section.
- (3) In addition to subsection (1), section 65 applies only to buildings to which Division 4 applies.

10 Transitional – Existing sanitation service providers

- (1) All sanitation service providers operating on the commencement of this Act must apply to the Director under section 73A within 6 months from the commencement section 73A for a licence.
- (2) To avoid doubt, a sanitation service provider may continue to operate without a licence issued under section 73A for a period of 6 months from the commencement of section 73A.