

COOK ISLANDS
PUBLIC HEALTH (SEWAGE) REGULATIONS 2008

Sir F. Goodwin, KBE

Queen's Representative

ORDER IN EXECUTIVE COUNCIL

At Avarua, Rarotonga, this **25th** day of **January** 2008

**HIS EXCELLENCY THE QUEEN'S REPRESENTATIVE IN EXECUTIVE
COUNCIL**

PURSUANT to Sections 41 and 142 of the Public Health Act 2004 the Queen's Representative, acting by and with the advice and consent of the Executive Council, makes the following regulations.

ANALYSIS

PART 1
ADMINISTRATION

- 1 Title
2. Commencement
3. Interpretation
- 4 Establishment of Sewage and Sanitation Board
5. Functions and powers of the Sewage and Sanitation Board
6. Liabilities of the Board
7. Register of Sanitary Professionals and Technicians
8. Register of Septic Tank Manufacturers
9. Register of Sewage Treatment Unit designs
10. Appointment of Sanitary Inspectors
11. Functions of Sanitary Inspectors
12. Responsibility for sewerage systems and sewage systems
13. Registry

PART 2
OPERATIONAL STANDARDS

14. Sewage Discharges
15. Sewage systems
16. Facility Plans
17. Storm water and drainage

PART 3
CONSTRUCTION OF SEWAGE SYSTEMS

18. Sewage Construction Permits
19. Applications for Sewage Construction permits
20. Issuance of Sewage Construction Permits
21. Construction of Sewage Systems
22. Completion Certificates
23. Buildings Permit under Buildings Regulations
24. Occupancy Permit under Building Regulations
25. Building Alterations and Extensions
26. Other enactments apply
27. Compliance with standards

PART 4
OPERATION AND MAINTENANCE

28. Operation of Moderate and High Load Systems
29. Operations and Maintenance Manual
30. Testing of Moderate and High Load Systems
31. Abandonment of Secondary and Advanced Treatment Systems
32. Maintenance contracts for Secondary and Advanced Treatment Systems
33. Sludge Removal

PART 5
UPGRADE TO EXISTING SEWAGE SYSTEMS

34. Inspection of existing properties
35. Deficiency in a Sewage system

PART 6
ENFORCEMENT, PENALTIES AND LIABILITY

36. Powers of Inspectors
37. Inspections
38. Proof of offence
39. Offences and penalties
40. Liability of principals and agents
41. Protections from liability of Officers and members of Board

REGULATIONS

1. Title - These regulations are the Public Health (Sewage) Regulations 2008.
2. Commencement - These regulations shall come into force -

(a) for the island of Rarotonga and Aitutaki on the 15th day after the date that the Queen's Representative signs the Order in Executive Council making these regulations;

(b) for the other islands, on a date to be notified by the Minister by notice in the Gazette.

3. Interpretation - In these regulations -

"Absorption" means the uptake of effluent into the soil matrix;

"Accredited laboratory" means a facility notified by the Minister for Health by notice in the Gazette for the purpose of analysis under these regulations;

"Advanced Treatment System" means a sewage system that treats sewage to a higher effluent standard than a Primary or Secondary Treatment System. Effluent quality following advanced treatment is expected to be equal to or better than the standards for Advanced Treatment Systems outlined in the Sewage Code. An Advanced Treatment System may include recirculation of sand filters, humus filtering systems and aerated activated sludge sewage systems;

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

"Alteration" in relation to a building means work done to alter a building;

"Approved Sanitary Engineer" means a person identified by the Board as being qualified, according to guidelines in the Sewage Code, to perform the functions of a sanitary engineer;

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

"Board" means the Sewage and Sanitation Board established pursuant to Regulation 4;

"BOD₅" means Biochemical Oxygen Demand (five day), being a measure of organic material degradable by aerobic bacteria at 20°C over five days;

"Building Controller" has the same meaning as provided in section 2 of the Building Control and Standards Act 1991;

"Commercial facility" means -

(a) any building, office or place in which two or more persons are engaged, or in which one or more persons are employed, directly or indirectly, in any

handicraft, or in preparing or manufacturing goods for trade or sale, and includes any building, office, or place in which work such as is ordinarily performed in a commercial facility is performed for or on behalf of any Island Council whether for trade or sale or not, but does not include any building in the course of erection, nor any temporary workshop or shed for workmen engaged in the erection of such building;

(b) a tourism facility;

(c) a bake house;

(d) any building or place in which steam or other mechanical power or appliance is used for the purpose of preparing or manufacturing goods for trade or sale, or packing such goods for transit;

(e) a building or place in which electrical energy is generated or transformed as an illuminate or a motive power for trade or sale;

(f) a commercial laundry, whether the persons engaged or employed therein receive payment or not;`

(g) any building or place in which any noxious handicraft, process or employment is carried on; and

(h) any building or place in which goods are stored or packed or otherwise kept for disposal whether by way of sale or otherwise but this shall not be interpreted to include any building or place used by any person for purposes not connected with any business or trade;

"Design Area" means the area of any particular lot where the effluent land application area and its reserve area are to be located;

"Design Flow" means the volume of sewage flow that a sewage system is designed to treat;

"Drain layer" means a person qualified in drain laying or an equivalent qualification as approved by the Board;

"Effluent" means the liquid discharge from a septic tank or other treatment unit;

"Effluent land application area" means a designated area for the application and in-soil treatment of effluent;

"Environment Officer" means an officer appointed under section 24 and 25 of the Environment Act 2003;

"Facility Plan" means a plan that provides for the upgrade of a High Load System to

prepare for an increase in sewage flow;

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

"Greywater" means the domestic sewage from baths, spas, showers, basins, laundries and kitchen sinks and dishwashers and other sinks and specifically excluding blackwater;

"Health Inspector" for the purposes of these regulations means an officer appointed under section 7 of the Public Health Act 2004 and qualified in sewage management;

"High Load System" means any sewage system designed to serve a property with a High Sewage Flow;

"High Sewage Flow" means a sewage flow of 10,000 litres per day or more or when in doubt, a flow that is close to this amount so that it can reasonably be considered a High Sewage Flow as determined by the Board;

"Inspector" means:

- (a) an officer appointed under section 7 of the Public Health Act 2004;
- (b) a Sanitary Inspector appointed under Regulation 10 of these Regulations;

"Installer" means a person qualified as determined by the Board to install a sewage system;

"Lagoon Protection Zone" comprises an area defined in the Sewage Code where high standards of on site sewage treatment and disposal will be required;

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

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

"Low Load System" means a sewage system designed to serve a property with a Low Sewage Flow;

"Low Sewage Flow" means sewage flow of up to and including 2,000 litres per day

or when in doubt, a flow that is close enough to this amount so that it can reasonably be considered a Low Sewage Flow as determined by the Board;

"Manufacturer" means any person who manufactures a sewage system;

"Minister" means the Minister of Health;

"Ministry of Works" means the Ministry of Works;

"Moderate Load System" means a sewage system designed to serve a property with a Moderate Sewage Flow;

"Moderate Sewage Flow" means sewage flow of more than 2,000 litres per day but less than 10,000 litres per day or when in doubt, a flow that is close enough to these amounts so that it can reasonably be considered a Moderate Sewage Flow as determined by the Board;

"Monitored Flow" means the measured flows associated with either or both the measuring by meter of all inward flows and outward flows from a Moderate Load System or High Load System;

"Mound system" means an on-site sewage treatment and land application system which -

- (a) is an above-ground mound construction commonly used where the natural water table is high or where further in-soil treatment is required to protect groundwater quality;

- (b) uses sand or some other suitable material, and where the mound dimensions depend on hydraulic loading and the infiltration characteristics of the soil profile on which the mound sits;

"Natural water" means rivers, streams, groundwater, or any lake or lagoon;

"Occupier" in respect of any premises, means the person who has occupational control of the property and in the case of a commercial or industrial building includes any agent, manager, foreman or other person acting in the general management or control of such building;

"Owner" means the owner of a sewage system which shall be the person that originally purchased the sewage system, or if the sewage system has been sold or transferred to a new owner, the new owner of the sewage system;

"Person" shall include a body of persons whether corporate or incorporate;

"Ponding" means the accumulation of sewage or effluent on a property creating a temporary pond;

"Primary Treatment System" means a sewage system that functions mainly to separate solids, scum and liquid and then disperse effluent to an effluent land application area;

"Property" means real and personal property and any other estate or interest in any property real or personal and any debt, and anything in action, in any other right or interest;

"Public Health Department" means the Ministry of Health as provided in the Public Health Act 2004;

"Registry" means the registry established and maintained by the Public Health Department pursuant to Regulation 13;

"Reserve Area" means the area of land set aside or identified as an alternative site for effluent treatment for times when the associated effluent land application area fails;

"Restricted Drainage Soil Horizon" means a soil horizon that restricts drainage from the ground and may include clay, hard pan, or bedrock;

"Sanitary Professionals and Technicians" means a person registered pursuant to Regulation 7;

"Sanitary Inspector" means any person appointed pursuant to Regulation 10 who is qualified to inspect sewage systems as determined by the Board;

"Secondary Treatment System" means a sewage system that uses aerobic biological processing and settling or filtering of sewage whereby effluent quality following secondary treatment is expected to be equal to or better than the standards for Secondary Treatment Systems outlined in the Sewage Code;

"Secretariat" means the Public Health Department;

"Septage" means the solid material that has settled out of liquid in a sewage system;

"Servicing Agent" means a person qualified to service a sewage system who shall be registered pursuant to the requirements of Regulation 7;

"Sewage" means any wastewater, including all faecal matter, urine, household, institutional and commercial sewage that contains human waste and in these Regulations, it shall be deemed to exclude storm water and shall include blackwater and greywater;

"Sewage Code" means the Public Health Sewage Code which is the supporting document for these Regulations published by the Public Health Department and which contains standards for sewage treatment in the Cook Islands;

"Sewage sludge" means any solid, semi-solid, or liquid residue removed during the treatment of sewage. Sewage sludge includes, but is not limited to, solids removed during primary, secondary or advanced sewage treatment, portable toilet pumping, scum, septage, and sewage sludge products. Sewage sludge does not include grit, screenings, or ash generated during incineration of sewage sludge;

"Sewage treatment" in these regulations shall be deemed to include treatment of all sewage, effluent, septage, or sludge arising there from for the purpose of reducing, for example, BOD₅, suspended solids, nutrients, bacteria and other pathogens as prescribed by these regulations;

"Sewage system" means any system designed to treat sewage and may include, for example, septic tanks, digester tanks, aeration tanks, and the associated in-soil treatment;

"Sewerage system" means any system designed and managed to collect and transport sewage effectively;

"Soak pit" means any effluent pit that discharges effluent directly to the ground;

"Storm water" means rainwater or water from irrigation that does not soak into the ground and includes runoff from hard surfaces such as roads and roofs;

"Surface water" means any stream, lagoon, marsh, swamp or pond whether -

- (a) natural or artificial;
- (b) permanent, seasonally flooded or temporary;
- (c) with water that is static or flowing, or fresh, brackish or salty.

"Suspended Solids" means the solids, which are suspended in sewage;

"Total Nitrogen" (TN) means the total mass of elemental nitrogen in a sewage sample and may exist in the following forms: ammonia, nitrite, nitrate and organic nitrogen;

"Total Phosphorus" (TP) means the total mass of elemental phosphorus in a sewage sample and may exist in the following forms: orthophosphate, polyphosphate and organic phosphate;

"Treatment Unit" means any tank or component of a sewage system (apart from the effluent land application area) where sewage is treated;

"Treated Sewage" means in the case of Low Sewage Flow, sewage that has undergone primary treatment at the least and in the case of Medium or High Sewage Flow sewage that has undergone secondary treatment or advanced treatment as

determined by the Board;

"Wastewater" means the spent or used water of residential, public or commercial origin.

PART I **ADMINISTRATION**

4. Establishment of Sewage and Sanitation Board - (1) There is hereby established the Sewage and Sanitation Board comprising the following:

- (a) Director of the Public Health Department in the Ministry of Health, who shall be the Chair;
- (b) Director of the National Environment Service;
- (c) Building Controller in the Ministry of Works; and
- (d) A representative of the Cook Islands Wastewater and Septic Disposal Association.

(2) For other islands, apart from Rarotonga, the Island Environment Authority together with one or more Health Officers appointed by the Secretary of Health shall perform the functions outlined in Regulation 5 (8) and (9) on their island.

(3) For those islands without an Island Environment Authority, the Island Council of the island concerned together with one or more Health Officers appointed by the Secretary of Health shall perform the functions outlined in Regulation 5 (8) and (9) on their island until an Island Environment Authority is established.

(4) The Cook Islands Wastewater and Septic Disposal Association shall nominate a representative to the Board on an annual basis and the representative shall be appointed by the Secretary of Health annually with the concurrence of the Board.

5. Functions and powers of the Sewage and Sanitation Board - (1) The Sewage and Sanitation Board shall -

- (a) recommend to the Minister changes to these Regulations;
- (b) approve the adoption of a Sewage Code and any amendments;
- (c) approve performance criteria for sewage systems;
- (d) approve the registration of sewage treatment units for individual islands;
- (e) approve the registration of sanitary professionals and technicians;

(f) approve the registration of septic tank manufacturers.

(2) The Public Health Department in the Ministry of Health shall be the Secretariat to the Board.

(3) The quorum of the Board shall be three members including the representative of the Cook Islands Wastewater and Septic Disposal Association.

(4) The Board shall meet quarterly at a minimum with the first meeting being within 14 days of the passing of these Regulations.

(5) The Board shall have the powers to remove any sewage treatment unit design from the Register if the sewage treatment unit design does not meet the requirements of these regulations or if the manufacturer is found to have provided false and misleading information about such sewage treatment unit design.

(6) The Board shall have the powers to remove any sanitary professional or technician from the register who has been proven to practice in a manner that deviates from the standards set out under these Regulations.

(7) The Board shall have the powers to remove from the register any septic tank manufacturer who has been proven to manufacture septic tanks contrary to the standards in the Sewage Code.

(8) On any island other than Rarotonga, the Island Environment Authority or the Island Council, as the case may be, together with one or more Health Officers appointed by the Secretary of Health, shall, when these regulations come into force on their island, have the responsibility of overseeing the effective implementation and compliance of these Regulations on their island.

(9) The Island Environment Authority or the Island Council as the case may be on any island other than Rarotonga together with one or more Health Officers appointed by the Secretary of Health may submit recommendations to the Board in relation to the application of these Regulations on their island.

(10) The approval of the construction and operation of any moderate load or high load sewage system on any island shall be the responsibility of the Public Health Department on Rarotonga.

(11) The approval of the construction and operation of any secondary or advanced treatment system on any island shall be the responsibility of the Public Health Department on Rarotonga.

(12) The representative of the Cook Islands Wastewater and Septic Disposal Association shall be remunerated according to the schedule attached to these regulations.

6. Liabilities of the Board - (1) The Board shall not be held liable for the costs associated

with the removal of a sewage treatment unit design from the Register.

(2) No Board member shall be liable to any civil or criminal action in any Court for any act or matter lawfully done and performed by such a Board member in the performance of the functions and in the exercise of any of the powers conferred upon him or her under these Regulations.

7. Register of Sanitary Professionals and Technicians - (1) The Board shall maintain and regularly update a register of sanitary professionals and technicians.

(2) The sanitary professionals and technicians who shall be registered are sewerage system designers, installers, servicing agents, and inspectors who meet approved standards of training and practical experience as outlined in the Sewage Code.

8. Register of Septic Tank Manufacturers - The Board shall maintain and regularly update a register of accredited manufacturers of septic tanks who manufacture septic tanks according to standards in the Sewage Code.

9. Register of Sewage Treatment Unit Designs - (1) The Board shall maintain and regularly update a register of specific designs of sewage treatment units that may be operated on an island.

(2) Applications may be made to the Board for the approval of specific designs of sewage treatment units to be registered and operated on an island.

(3) Pursuant to the requirements of subclause (2), applications for the registration of sewage treatment unit designs shall consist of information as prescribed in the Sewage Code.

(4) All applications made pursuant to this Regulation shall be submitted at least four months before an application is made to the Public Health Department to construct such system as required under Regulation 19.

(5) The Board shall seek written advice from two independent and approved sanitary engineers before making a decision on any application under this Regulation.

(6) Within three (3) months of receipt of an application for registration under this Regulation, the Board shall determine whether the proposed sewage treatment unit design is acceptable for registration.

(7) The decision of the Board regarding an application for registration of a sewage treatment unit design shall be conveyed to the applicant within two weeks of the Board's decision.

(8) The Board may request information regarding any sewage treatment unit design operating in the Cook Islands from the owner, designer, manufacturer, sales agent, installer or servicing agent and the owner, designer, manufacturer, sales agent, installer or servicing agent shall provide such information to the Board.

10. Appointment of Sanitary Inspectors - (1) The Secretary of Health may appoint, for a period specified in the appointment, Sanitary Inspectors from any appropriately qualified sanitary professional or technician registered under Regulation 7.

11. Functions of Sanitary Inspectors - (1) Sanitary Inspectors appointed by the Secretary of Health pursuant to Regulation 10 shall have the following functions and powers:

(a) the inspection of sewage systems and sewerage systems to ensure they are in compliance with these Regulations;

(b) the assessment of site conditions at the location of existing or proposed sewage systems;

(c) the completion of reports regarding inspections and assessments undertaken in (a) and (b).

(2) Any Inspector may call upon the assistance of an Environment Officer and the Building Controller to attend to matters outside the jurisdiction of the Public Health Department.

(3) The Secretary shall cause to be issued to each Sanitary Inspector an identity card in such form as the Secretary thinks fit.

(4) Every person who ceases to be a Sanitary Inspector shall forthwith return his or her identity card to the Secretary.

(5) A Sanitary Inspector performing an inspection under Regulations 21 and 35 shall, if requested by an owner of the property, produce that Inspector's identity card.

12. Responsibility for Sewerage Systems and Sewage Systems - (1) The owner of a sewage system shall be responsible for the costs of maintenance or upgrade of his or her sewage system including any enclosed storage and any sewers and other fixtures that carry sewage to the tanks of the sewage system.

13. Registry - (1) Information on every sewage system inspected under these Regulations may be maintained on a Geographical Information System infrastructure database and may be used to develop a Land Information Memorandum (Drainage) for each system, as outlined in the Sewage Code.

(2) The Public Health Department shall, upon request and payment of appropriate costs for copying, make available to any member of the public officially stamped copies of a Land Information Memorandum (Drainage) that has been maintained pursuant to sub-regulation (1).

PART 2

OPERATIONAL STANDARDS

14. Sewage Discharges - (1) Any discharge of sewage to natural water or onto land shall

meet the requirements of these Regulations.

15. Sewage Systems - (1) All sewage treatment units installed after the date of commencement of these Regulations shall be of a design that has been registered with the Board under Regulation 9.

(2) All pre cast septic tanks installed after the date of commencement of these regulations shall be manufactured in accordance with standards outlined in the Sewage Code and by a registered manufacturer listed on the Register as provided under Regulation 8.

(3) All septic tanks constructed on site after the commencement of these regulations shall be constructed in accordance with standards in the Sewage Code.

(4) Effluent from Secondary Treatment Systems and Advanced Treatment Systems shall meet standards outlined in the Sewage Code.

(5) All Secondary Treatment Systems and Advanced Treatment Systems shall be operated according to the guidelines of their Operation and Maintenance Manual and the requirements of these Regulations.

(6) The design and construction of all Moderate Load Systems and High Load Systems shall include enclosed storage to allow the storage of a minimum of 24 hours design flow in order to allow for equipment failures.

(7) All drain laying shall comply with standards for drain laying outlined in the Sewage Code.

(8) All sewage systems shall comply with setback requirements provided in the Sewage Code, except in cases where the land area is insufficient to adequately comply with setback requirements.

(9) In cases where there is insufficient land area to adequately comply with the setback requirements provided in the Sewage Code, sewage treatment shall be improved using methods outlined in the Sewage Code.

(10) Grease reduction shall be installed at all commercial kitchen drains to prevent grease and oil from entering the sewage system.

(11) There shall be no excavation permitted within any area occupied by an existing sewage system or sewerage system without prior written approval by the Public Health Department.

(12) Land application systems shall be designed to achieve uniform application at or less than the maximum design loading rates as specified in the Sewage Code.

(13) Any land application system installed shall be constructed according to specifications in the Sewage Code.

16. Facility Plans - (1) An owner of a High Load System shall

(a) submit a facility plan to the Board when the actual sewage flow reaches 75 per cent of the design capacity of the system; and

(b) implement the facility plan when the actual sewage flow reaches 90 per cent of the design capacity of the system.

(2) Upon receipt of the facility plan in 16(1)(a) the Board shall review the facility plan and within a time period specified in the relevant section of the Public Health Sewage Policy, the Board may:

(a) approve the facility plan;

(b) approve the facility plan subject to conditions; or

(c) defer final determination of the facility plan pending the receipt of amendments or further information.

17. Storm Water and Drainage - (1) All storm water drainage systems shall dispose of storm water to land or to any natural water by a method or design approved by the Board.

(2) No storm water shall be discharged into any sewerage system or sewage system.

(3) All storm water shall be diverted away from any effluent land application area.

PART 3 **CONSTRUCTION OF SEWAGE SYSTEMS**

18. Sewage Construction Permit- (1) No person shall install a sewage system or sewerage system except:

(a) in accordance with a permit issued by the Public Health Department; and

(b) by an appropriately qualified installer registered under Regulation 7.

(2) No environment permit or consent issued by the National Environment Service shall confer automatic approval of a Sewage Construction Permit.

19. Applications for Sewage Construction Permit - (1) Any person who intends to install a sewage system shall submit an application for a Sewage Construction Permit to the Public Health Department.

(2) An application for a Sewage Construction Permit submitted under this Regulation shall comprise:

(a) a completed application form as outlined in the Sewage Code;

- (b) a signed declaration stating the number of people the sewage system will serve and the names of the people who shall be responsible for the costs of maintaining the sewage system and any sewerage system leading to that sewage system;
- (c) a copy of the building plans and site plan showing the proposed number of bedrooms (if any), the proposed number of buildings and showing where the septic tank or treatment unit and land application system will be positioned;
- (d) a declaration by the registered sewerage system designer who has been retained by the applicant to supervise the installation of the sewage system that the sewage system is the appropriate design for the property named on the application.
- (e) a copy of the sewage system maintenance contract if applicable;
- (f) an application fee as prescribed in the Sewage Code; and
- (g) any other information, documents, diagrams, plans, declarations and statements as may be needed to assist the Public Health Department with making a decision on the approval of an Application for a Sewage Construction Permit.

(3) A declaration made pursuant to (2) (d) above shall include:

- (a) the name and the contact particulars of the registered sewerage system designer who has been retained by the applicant to supervise the installation of the sewage system and any associated sewerage system;
- (b) a statement of the choice of registered treatment unit and land application system to be used;
- (c) a statement of the likely daily production of sewage waste based on the applicant's statement of the number of persons to be served and the sewage design flows outlined in the Sewage Code;
- (d) a declaration stating whether the proposed sewage system will be a Primary Treatment System, Secondary Treatment System or Advanced Treatment System;
- (e) as applicable, the name and the contact particulars of the accredited manufacturer who will manufacture any septic tank;
- (f) as applicable, the name and the contact particulars of the accredited manufacturer who will manufacture any Secondary Treatment System or Advanced Treatment System; and
- (g) any other statement as may be needed to assist the Public Health Department with making a decision on the approval of an Application for a Sewage Construction Permit.

(4) All the costs for maintenance of a sewage system and any associated sewerage system that carries sewage to that sewage system shall be met by the owner of the sewage system.

(5) In the case of the installation of Secondary or Advanced Treatment Systems and in addition to the requirements of sub-regulation (1), the following documents shall be submitted to the Public Health Department prior to the issue of a Sewage Construction Permit:

(a) a written declaration signed and dated by an approved sanitary engineer contracted to design the sewage system that the proposed sewage system and any associated sewerage system was designed to meet all applicable requirements of these Regulations; and

(b) certification by the owner of a proposed Secondary Treatment System or Advanced Treatment System that -

(i) the system shall be operated and maintained in accordance with all of the provisions of the operation and maintenance manual developed pursuant to Regulation 29 (1) (b);

(ii) the operation and maintenance manual shall be available to the operator of the sewage system;

(iii) upon sale or transfer of ownership of the sewage system, or upon sale or transfer of ownership of property where the sewage system is located, the sale and transfer will include a copy of the Land Information Memorandum (Drainage) associated with that system, equipment manuals, operational data collected and the appropriate transfer documents and provisions binding the new owner to the operation and maintenance manual.

20. Issuance of Sewage Construction Permit - (1) Upon receipt of any application pursuant to Regulation 19, the Public Health Department shall:

(a) review the application with the applicant to ensure that -

(i) the application form has been correctly and fully completed;

(ii) the application form has been signed by the applicant;

(iii) all information required under these Regulations has been provided;

(iv) the declaration of the registered sewerage system designer has been signed; and

(v) if applicable, the sanitary engineers declaration has been signed.

(b) affix the date of receipt upon the application form; and

(c) lodge the application in the register that shall be maintained for the processing of applications under these Regulations.

(2) The Public Health Department may request further information from the applicant regarding an application for a Sewage Construction Permit and the applicant shall provide such information within a time period that the Public Health Department specifies.

(3) When the Public Health Department is satisfied that the application for the Sewage Construction Permit is complete, the Public Health Department may issue a Sewage Construction Permit to the applicant.

(4) The Public Health Department shall not be held liable for issuing a Sewage Construction Permit based on false, misleading or incorrect information provided to them in the application.

(5) The Public Health Department may decline any application if the applicant fails to provide the information required under these Regulations.

(6) Any permit issued by the Public Health Department pursuant to sub-regulation (3) shall be deemed to have expired and be void if work is not completed on the installation of the sewage system within one year of the issue of the permit by the Public Health Department.

(7) After a permit has been issued by the Public Health Department pursuant to sub-regulation (3), no deviation shall be made from any of the particulars supplied upon any plan, drawing specification or document deposited with the application upon which the approval was issued, unless amended particulars clearly describing the intended deviation are supplied to the Public Health Department which has given written approval to such deviation.

(8) Any discrepancy between the constructed sewage system and the approved plans shall be sufficient reason to demand work to modify the sewage system to meet the approved plans at the owner's expense or to withhold the permit to operate the sewage system pursuant to Regulation 22.

21. Construction of Sewage Systems - (1) The construction of any sewage system pursuant to these Regulations shall be supervised by a registered installer who is responsible for ensuring that the installation and construction is undertaken in accordance with these Regulations.

(2) Every person to whom a Sewage Construction Permit has been issued by the Public Health Department pursuant to Regulation 20 shall notify the Public Health Department when work is ready for inspection by submitting a completed Request for Sewage System Inspection form as outlined in the Sewage Code, and no work shall be covered up or enclosed until it has been inspected and approved pursuant to the provisions of these Regulations.

(3) Within the period specified under the Sewage Code a Sanitary Inspector shall inspect the site together with the registered installer who has supervised the installation of the sewage system to:

- (a) verify that a registered installer has supervised the installation and construction of the sewage system to the requirements of these Regulations;
- (b) complete the relevant Inspection Report as prescribed in the Sewage Code; and
- (c) verify that the positioning, installation and construction of the sewage system is to the approved plan and to standards in the Sewage Code.

(4) In the event that the positioning, installation and construction of the sewage system is not according to standards in the Sewage Code, the Sanitary Inspector shall, upon completion of any inspection pursuant to sub-regulation (3) and until such time as the Sanitary Inspector is satisfied that the sewage system meets such standards and requires no further inspection -

- (a) require the installer to modify the installation to meet the standards specified in these regulations;
- (b) request in writing that the applicant, after rectifying the defect, complete and submit to the Public Health Department another Request for Sewage System Inspection form as outlined in the Sewage Code and site inspection fee prescribed in the Sewage Code.

(5) After receipt of any Request for Sewage System Inspection form submitted pursuant to the requirements of this Regulation, the Sanitary Inspector shall inspect the sewage system within a period of time specified in the relevant section of the Sewage Code until he or she is satisfied that the construction complies with standards set out in the Sewage Code.

22. Completion Certificate - (1) Where, upon completion of any site visit pursuant to Regulation 21, the Sanitary Inspector is satisfied that the design and positioning of the sewage system complies with the requirements of these Regulations and the Sewage Code, the Public Health Department shall issue a Completion Certificate as outlined in the Sewage Code.

(2) No sewage system installed after the date of commencement of these Regulations shall be operated until such a Completion Certificate has been issued under sub-regulation (1).

(3) A copy of any Completion Certificate issued pursuant to this Regulation shall be lodged in the registry and the Public Health Department may input the data in a Geographical Information System infrastructure database.

23. Building Permit under Building Regulations - The Ministry of Works shall not approve a Building Permit under the provisions of the Building Control and Standards Act 1991 and Building Control and Standards Regulations 1991 until a Sewage Construction Permit has been issued pursuant to the requirements of Regulation 20.

24. Occupancy Permit under Building Regulations - The Ministry of Works shall not approve an Occupancy Permit under the provisions of the Building Control and Standards Act 1991 and Building Control and Standards Regulations 1991 until a Completion Certificate has been issued pursuant to Regulation 22.

25. Building Extensions and Alterations - (1) No person shall build an extension to their building that will result in additional sewage flow without the permission of the Public Health Department.

(2) No person shall change the use of their building in such a way that the new use will result in additional sewage flow without the permission of the Public Health Department.

(3) For the purposes of this Regulation, a person is changing the use of a building when the new use will result in the placement of the building in a different class.

(4) Classes of building shall be listed in the Sewage Code.

(5) In cases where a building extension or a change of class of a building will result in additional sewage flow that will compromise standards in these Regulations, the Public Health Department may request the owner of the building to modify the existing sewage system or install a new sewage system so that the standards in these Regulations can be met.

(6) If the Public Health Department requests the owner of a building to install a new sewage system, the owner shall apply for a Sewage Construction Permit as prescribed in Regulation 19.

(7) In cases where the Public Health Department requests the owner of a building to modify an existing sewage system the owner shall submit an Application for Sewage System Modification and that application shall contain such information, documents, diagrams, plans, declarations and statements as may be needed to assist the Public Health Department with making a decision on the approval of an Application for Sewage System Modification.

(8) Upon receipt of an Application for Sewage System Modification, the Public Health department may:

(a) approve the application;

(b) approve the application subject to conditions;

(c) defer final determination of the application pending the receipt of amendments or further information; or

(d) decline the application.

26. Other Enactments Apply - These Regulations do not exempt any applicant, whether or not a Sewage Construction Permit has been granted under the provisions of these

Regulations, from the requirements imposed upon any construction activity or undertaking by any other law.

27. Compliance with standards - (1) No financial institution shall provide a loan or mortgage for any construction that is subject to an application under these Regulations, unless the applicant or borrower submits an approval, permit or consent with his or her loan or mortgage application.

(2) Any financial institution that contravenes this provision shall, upon conviction, be liable to a maximum fine of the sum of \$5,000.

PART 4 **OPERATION AND MAINTENANCE**

28. Operation of Moderate and High Load Systems - (1) All Moderate Load and High Load Systems shall be fitted with a continuous effluent flow measuring device such that daily sewage flow can be determined, and for sewage systems with design flows equal to or greater than 350,000 litres per day the continuous effluent flow measuring device shall include recording equipment to document or chart daily flows.

(2) The operator of a Moderate Load System or High Load System shall submit a record of sewage flow to the Public Health Department at a frequency outlined in the Sewage Code.

(3) The Public Health Department shall keep a record of flows in the registry.

29. Operation and Maintenance Manual - (1) No person shall operate a Secondary Treatment System or Advanced Treatment System unless the following documents are prepared and kept available for inspection at all times at the site of such treatment system -

(a) a written declaration, signed and dated by the engineer responsible for the preparation of the operation and maintenance manual for the sewage system, that the operation and maintenance manual meets the requirement of sub-paragraph (b) and that if the sewage system is operated in accordance with the manual, all applicable effluent standards as provided in the Sewage Code will be achieved; and

(b) an operation and maintenance manual prepared in accordance with the Sewage Code.

30. Testing of Moderate and High Load Systems - (1) The owner of a Moderate Load System or High Load System shall submit to the Public Health Department at a frequency, duration and commencement date to be determined by the Board:

(a) a written summary of design flow versus actual flow;

(b) effluent test results from an accredited laboratory for BOD₅, suspended solids, faecal coliforms, total nitrogen and total phosphorus; and

(c) a statement by the owner's engineer listing all results and reporting on the compliance or measures undertaken to ensure compliance with the operational standards under the Sewage Code.

(2) The number of effluent samples that shall be collected and the frequency of their collection shall be determined by the Board.

(3) The Public Health Department shall examine the data submitted pursuant to sub-regulation (1) and determine whether or not the sewage system meets the applicable operational standards provided in the Sewage Code and may file the data and their conclusion in a Geographical Information System infrastructure database.

(4) The Public Health Department may at any time collect effluent samples from any Moderate Load System or High Load System and have the samples analysed at an accredited laboratory.

(5) Pursuant to Regulation 30 (4), the cost of collection, analysis and reporting of effluent samples collected by the Public Health Department may be charged to the owner of the sewage system.

(6) When the Moderate Load System or High Load System does not meet applicable operational standards as provided in these Regulations and the Sewage Code, the owner shall submit to the Public Health Department a corrective action report containing:

- (a) an analysis of the cause of the failure to meet the operational standards;
- (b) an estimate of the scope of the corrective action necessary to enable the sewage system to be in compliance;
- (c) a schedule for the corrective actions; and
- (d) a date by which the treatment works shall be in compliance.

(7) Upon receipt of a corrective action report, the Public Health Department may:

- (a) approve the corrective action report;
- (b) approve the corrective action report subject to conditions; or
- (c) defer final determination of the corrective action report pending the receipt of amendments or further information.

(8) Upon completion of any work schedule undertaken under this Regulation, the owner shall submit to the Public Health Department a report on the results of effluent tests performed at an accredited laboratory after corrective action has been completed by a date to be specified by the Public Health Department.

31. Abandonment of Secondary or Advanced Treatment Systems - (1) No Secondary Treatment System or Advanced Treatment System may be abandoned, retired or disconnected without the written permission of the Public Health Department.

(2) An application for permission to abandon, retire or disconnect a Secondary Treatment System or Advanced Treatment System pursuant to sub-regulation (1) shall be accompanied by, as applicable, an abandonment plan that shall detail the planner and time frame by which the system shall be rendered safe and harmless to human health and the environment.

(3) Upon receipt of an abandonment plan submitted under (2), the Public Health Department may -

(a) approve the abandonment plan;

(b) approve the abandonment plan subject to conditions; or

(c) defer final determination of the abandonment plan pending the receipt of amendments or further information.

(4) Upon receipt of an approval under sub-regulation (3) the applicant shall render the Secondary Treatment System or Advanced Treatment System safe in accordance with the abandonment plan approved pursuant to sub-regulation (3).

32. Maintenance contracts for Secondary and Advanced Treatment Systems - (1) All owners of Secondary Treatment Systems and Advanced Treatment Systems shall have and maintain a sewage system maintenance contract with a certified and registered servicing agent.

(2) No permit for a Secondary Treatment System or Advanced Treatment System shall be granted by the Public Health Department pursuant to Regulation 20 until a copy of a maintenance agreement with a servicing agent has been lodged with the Public Health Department.

(3) The servicing agent shall be retained by the owner of a Secondary Treatment System or Advanced Treatment System to undertake inspections of the sewage system in accordance with the Operation and Maintenance Manual.

(4) Reports on the inspection of a Secondary Treatment System or Advanced Treatment System undertaken in accordance with these Regulations including any effluent test results shall be filed with the Public Health Department.

(5) Copies of maintenance contracts and inspection reports required under this Regulation shall be lodged with the Registry maintained for the purposes of Regulation 13.

33. Sludge Removal - (1) Every septic tank shall be desludged as required in the Sewage Code.

(2) A Sludge Removal Report as outlined in the Sewage Code shall be completed by the

sludge removal contractor and the original copy shall be given to the owner of the septic tank.

(3) The sludge removal contractor shall submit a copy of the sludge removal report to the Public Health Department within a period specified in the Sewage Code.

(4) Upon receipt of the report submitted pursuant to Regulation 34 (3), the Public Health Department shall enter the information on a Geographical Information System infrastructure database.

PART 5

UPGRADE TO EXISTING SEWAGE SYSTEMS

34. Inspection of existing properties - (1) A Sanitary Inspector may at any reasonable time inspect a sewage system to determine compliance with these Regulations.

(2) During any inspection undertaken pursuant to sub-regulation (1), the Sanitary Inspector shall, as appropriate:

- (a) check that all data pertaining to that sewage system is held on a Geographical Information System infrastructure database;
- (b) assess the condition of the sewage system;
- (c) determine whether the effluent treatment area is sufficient for the design flow of the system;
- (d) supervise the pump out of the contents of the sewage system if necessary;
- (e) recommend the relocation, repair, remediation or alteration of any part of a sewage system to meet standards in the Sewage Code;
- (f) recommend the replacement of an irreparable sewage system;
- (g) if applicable, determine if a copy of any maintenance contract is held by the Public Health Department; and
- (h) ensure that any holes excavated for the purposes of gathering data pursuant to sub-regulation (2) (a) to (d) are refilled, levelled and left in a tidy manner.

(3) During any inspection undertaken pursuant to sub-regulation (2) the Sanitary Inspector may also determine whether a Secondary Treatment System or Advanced Treatment System complies with performance standards specified in the Sewage Code.

(4) The Sanitary Inspector shall prepare a report outlining the checks made on the sewage system pursuant to sub-regulation (2) and (3), the work done to the system and their recommendations and the Public Health Department may submit this information for

inclusion of a Geographical Information System infrastructure database.

35. Deficiency in a Sewage System - (1) If upon reviewing any inspection report filed pursuant to Regulation 34 (3), the Public Health Department determines that any sewage system does not comply with the requirements of these regulations, the Public Health Department shall, by notice in writing to the owner of such system, either:

(a) require that the sewage system be modified in such a way that it shall meet the requirements of these regulations; or

(b) require that a new sewage system be installed.

(2) The period of time within which any work is required to be completed as prescribed in a notice issued under this Regulation shall be no more than three calendar years except for any sewage system in the Lagoon Protection Zone for which the period of time shall be no more than two calendar years.

(3) For the purposes of this Regulation, a sewage system is deemed to be within the Lagoon Protection Zone when the effluent from that system is dispersed within the Lagoon Protection Zone or to any surface water.

(4) Any work undertaken to comply with a notice issued by the Public Health Department pursuant to sub-regulation (1) shall;

(a) be supervised by a registered installer or servicing agent; and

(b) be inspected by a Sanitary Inspector.

(5) A new sewage system constructed pursuant to sub-regulation (1) shall be constructed according to the process outlined in these Regulations and shall not be operated until a Completion Certificate has been issued.

(6) Any person who intends to lodge a complaint regarding a deficient sewage system shall do so with a Health Inspector in the form outlined in the Sewage Code.

(7) The Public Health Department shall handle any complaint received pursuant to sub-regulation (6) according to the procedures outlined in Section 136 of the Public Health Act 2004.

PART 6

ENFORCEMENT, PENALTIES AND LIABILITY

36. Powers of Inspectors - (1) It is a condition of every permit issued by the Public Health Department under these Regulations that the holder must permit inspectors to carry out inspections of any place to which the permit relates.

(2) The owner or occupier of any place in respect of which an Inspector is exercising powers

to carry out duties pursuant to these Regulations, shall:

(a) give the Inspector all reasonable assistance to enable the Inspector to exercise those powers and carry out those duties; and

(b) furnish all information relative to the exercise of those powers and the carrying out of those duties that the Inspector may reasonably require.

(3) An Inspector shall not be held liable for any act or omission while performing any duty or function under these regulations if such act or omission was undertaken with due diligence and performed in good faith.

37. Inspections - (1) For the purpose of the enforcement of these Regulations, an Inspector may, at any reasonable time:

(a) undertake an inspection of any sewage system;

(b) enter and inspect any place to which a permit has been issued under these Regulations to determine whether any activity is being undertaken in violation of any condition or requirement under these Regulations or any permit issued by the Public Health Department;

(c) enter and inspect any place where the Inspector has reasonable grounds to believe that documents pertaining to any offence under these Regulations may be found;

(d) require the production of any documents that are required to be kept pursuant to these Regulations or any other documents that are related to the purpose for which the Inspector is exercising any power or performing any duty under these Regulations.

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

(2) A certificate of an inspector stating that the inspector has analysed or examined a site, substance or product and stating the result of the analysis or examination is admissible in evidence in any prosecution for an offence under these Regulations and in the absence of evidence to the contrary, is proof of the statements contained in the certificate.

(3) Notwithstanding the provisions of sub-regulation (2), the party against whom a certificate of an inspector is produced may, with the leave of the court, require the attendance of the inspector for the purposes of cross-examination.

(4) No certificate of an inspector shall be received in evidence unless the party intending to produce it has served it on the party against whom it is intended to be used together with reasonable notice of the intention to use such evidence.

39. Offences and penalties - (1) A person who -

- (a) provides false or misleading information pursuant to a requirement under these Regulations;
- (b) tampers with or mishandles an effluent sample such that the tampering or mishandling affects the result of laboratory tests of that sample;
- (c) submits any false or misleading report in respect of any report required pursuant to these Regulations;
- (d) hinders or obstructs an inspector who is exercising powers or carrying out his or her duties, or attempting to do so, pursuant to these Regulations;
- (e) covers a sewage system before it has been inspected pursuant to Regulation 21 (3);
- (f) constructs any sewage system other than in compliance with the requirements of these Regulations;
- (g) operates any sewage system other than in compliance with the requirements of these Regulations;
- (h) owns a Moderate Load System or High Load System that has ceased to operate according to the requirements of these Regulations or any permit issued under these Regulations and neglects to employ a method or methods to prevent the discharge of untreated sewage into the environment,

commits an offence and upon conviction (for which no other penalty is provided by the Act or this Regulation) shall be liable -

- (a) in the case of a body corporate to a fine not exceeding \$10,000, and if the offence is a continuing one to a further fine of \$1,000 for each day or part of a day that the offence shall continue;
- (b) in the case of an individual to a fine not exceeding \$1,000, and if the offence is a continuing one to a further fine of \$100 for each day or part of a day that the offence shall continue.

(2) In addition to or instead of such fine and imprisonment, the Court may order that individual or body corporate to do all or any of the following:

- (a) under the supervision and to the satisfaction of a person nominated by the Court, to clear up and remedy any damage caused to the environment as a consequence of the offence within such period and upon such conditions as may be specified in the order with the intent that any damaged area be restored as near as possible to a satisfactory, environmentally sound state;

(b) to remove any structure, fill or material placed in contravention of the Act or this Regulation;

(c) to pay such amount as the Court may assess in respect of the expenses and costs that have been or are likely to be incurred restoring the environment to which the offence relates to its former state (its state immediately before the offence).

40. Liability of principals and agents - (1) if an offence against this Regulation is committed by any person acting as the agent or employee of another person, that other person is, without prejudice to the liability of the first-mentioned person, liable under this Act in the same manner and to the same extent as if he or she had personally committed the offence if it is proved -

(a) That the act or omission that constituted the offence took place with his or her authority, permission, or consent; or

(b) That he or she -

(i) Knew or should have known that the offence was to be or was being committed; and

(ii) Failed to take all reasonable steps to prevent or stop it.

(2) Where any body corporate is convicted of an offence against this Act, every person, being a director or a person concerned in the management of the body corporate, is guilty of the same offence if it is proved -

(a) That the act or omission that constituted the offence took place with his or her authority, permission, or consent; or

(b) That he or she -

(i) Knew or should have known that the offence was to be or was being committed; and

(ii) Failed to take all reasonable steps to prevent or stop it.

41. Protection from liability of Officers and members of Board - (1) No Officer or official performing functions under the Act or this Regulation shall in any way be liable to be prosecuted, or be liable in damages, for the exercise or performance in good faith of the functions, duties, or powers vested under the Act or this Regulation.

(2) No member of the Board shall in any way be liable in respect of -

(a) Anything done or omitted to be done in the exercise or performance of the functions, duties, or powers of the Board or (as the case may be) the council; or

(b) Any words spoken or written at or for the purposes of -

(i) the hearing of any application, inquiry, or investigation under the Act or this Regulation; or

(ii) any other proceedings under the Act or this Regulation, -

unless the thing was done or omitted to be done, or the words were written, or spoken, in bad faith.

Grover Lee Harmon
Clerk of the Executive Council

SCHEDULE
Regulation 5 (12)

REMUNERATION OF THE REPRESENTATIVE OF THE COOK ISLANDS
WASTEWATER AND SEPTIC DISPOSAL ASSOCIATION

(a) Within the first year of the commencement of these Regulations, the representative of the Cook Islands Wastewater and Septic Disposal Association shall be remunerated for a maximum of six sittings.

(b) After the first year from the date of commencement of these Regulations the representative of the Cook Islands Wastewater and Septic Disposal Association shall be remunerated for every sitting.

(c) Without limiting the requirements of (a) and (b) above, remuneration of the representative of the Cook Islands Wastewater and Septic Disposal Association shall be \$50 per sitting of the Board.