

[Legal Notice No. 75]

PROVINCIAL GOVERNMENT ACT 1997  
(NO. 7 OF 1997)

THE TEMOTU (LATA TOWNSHIP) WATER SUPPLY (AMENDMENT)  
ORDINANCE 2008

AN ORDINANCE TO AMEND THE TEMOTU (LATA TOWNSHIP)  
WATER SUPPLY ORDINANCE 2006

Arrangement of Sections

1. Short title and commencement
2. Interpretation
3. Amendments to principal Ordinance
4. Notice of Offence procedure
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1. This Ordinance shall be cited as the Temotu (Lata Township) Water Supply (Amendment) Ordinance 2008 and shall come into force when the Minister of Provincial Government assents to it in accordance with section 32 of the Act. Short title and commencement

2. In this Ordinance unless a different intention appears or the context otherwise requires: Interpretation

“Act” means the Provincial Government Act 1997 (No 7 of 1997);

“principal Ordinance” means Temotu (Lata Township) Water Supply Ordinance 2006;

words have the same meaning as used or defined in the principal Ordinance.

3. (1) The main entitlement of the principal Ordinance is hereby amended by inserting the words: “and Environs” after the words “Lata Township”,. Amendments to principal Ordinance

4. Section 3 of the principal Ordinance is repealed and is replaced by the following new section 3:

“Area of application

3. This Ordinance applies only to:
- (1) the area known as Lata Town that encompasses the areas described as LR 751, 668, 896, 791, 589 lots 1 and 2, 700, 925, 926 lots 1, 2 and 3, 797, 750, and 813;
  - (2) any other area or place that is declared by an Act of Parliament or a Provincial Ordinance, or by a Regulation made under an Act or Ordinance, to be within the official boundaries of Lata Town;
  - (3) any area, place or person who takes, uses, is supplied or consumes water from or by means of the water system; or
  - (4) any other area or place in Temotu Province where the Provincial Government assists with water supply and that the Executive defines by Regulation.”
  - (5) Section 4 of the principal Ordinance is repealed and is replaced by the following new section 4:

**“Responsibilities to provide water supply**

4. (1) Subject to the provisions of this Ordinance, the Provincial Government is responsible for the supply of wholesome water to Lata Township and the installation and maintenance of the water system.
- (2) As part of or incidental to the supply of water to Lata Township by means of the water system the Provincial Government may supply water or allow water to be supplied to areas or consumers outside Lata Township that or who can conveniently be served by means of the water system.
- (3) Any fixtures and fittings used to supply water by the water system to consumers outside Lata Town shall form part of the water system unless the Provincial Government and the consumers’ representative agree in writing that the fixtures do not form part of the water system.

(4) The Provincial Government may make reasonable charges to consumers (the nature of which charges may differ between consumers depending on the type and level of service provided) for:

- (a) the supply of water to any consumer, group of consumers, place or area;
- (b) the installation of any fittings needed for or related to such supply; and
- (c) the maintenance and repair of the water system."

(6) Section 10 of the principal Ordinance is amended by inserting the words "consumers or groups of consumers" after "Provincial Government may charge".

(7) Section 11 of the principal Ordinance is amended by inserting the words "to consumers or groups of consumers" after "may charge water rates".

(8) Section 11.1 is amended by deleting the reference to section 9.1 and replacing with a reference to section 15.1.

(9) Section 13.1 is amended by adding the words "Except where an Authorised Officer reasonably considers an emergency to exist" at the beginning of the existing section.

(10) Section 16 is amended by adding a new paragraph 16.1.2:

"16.1.2 any person who makes or attempts to make an unauthorised connection to the water system by tapping or connecting into the water system main polyethylene pipeline or attempting to do so, or to any subsidiary pipeline, connected to the main pipeline and constructed of polyethylene, at any point from the water source to the Lata Town boundary, is guilty of an offence and is liable on summary conviction to a fine of not more than \$3,000, or a term of imprisonment of not more than twelve months, or both a fine and imprisonment, together with such reasonable costs as the Court may order to be paid to the Provincial Government as reparations, for the removal of any unauthorised connection and consequential repair of the water system:

Provided that, for the purposes of this paragraph, "unauthorised connection" means any connection to the water system that has not been approved in writing by an Authorised Officer, and includes any partially completed but unauthorised connection."

**Notice of Offence procedure**

4 A new section 17 is hereby inserted in the principal Ordinance as follows:

**"Notice of Offence as an alternative to prosecution and conviction 17**

(1) Where a police officer or Authorised Officer is satisfied that an offence against section 16 of the Ordinance has been or is being committed he or she may issue the offender with a Notice of Offence in any manner provided by section 14 and in the prescribed form, giving details of the alleged offence and a penalty of not more than \$400 (or, in respect of paragraph 16.1.2, not more than \$2,000), or such lesser amount as may be prescribed in Regulations for a particular offence or category of offence).

(2) Where the alleged offender:

- (a) pays the penalty stated in the Notice at the Provincial Treasury within 21 days of the date of the notice; and
- (b) where the alleged offence is continuing or has caused damaged to the water system, offers satisfactory proof to an Authorised Officer that the circumstances giving rise to the offence have been rectified and that any damage has been satisfactorily and permanently repaired;

no prosecution under this Ordinance may be proceeded with or any conviction entered in respect of the alleged offence.

(3) For the purposes of sub-section (2), production to an Authorised Officer or a Court Clerk of the relevant Treasury receipt, together with any written confirmation from an Authorised Officer that a continuing offence has been rectified and any damaged repaired, shall be sufficient proof that the alleged offender is entitled to avoid prosecution or conviction of the offence alleged in any Notice of Offence.

- (4) Any fine or penalty collected under this Ordinance, regardless of whether it is collected under this section or as a result of a summary prosecution and conviction, shall be paid into the Temotu Province Provincial Fund."

**Power to make Regulations inserted**

5 A new section 18 is hereby inserted in the principal Ordinance as follows:

**Regulations**

18 The Executive may by Order make Regulations for the better implementation of this Ordinance, including but not limited to:

- (a) prescribing or amending any water rate or categories of water rate payable under the Ordinance by consumers or groups of consumers;
- (b) prescribing any fees or charges (other than penalties), or any method for calculating fees or charges, relating to any service or act done under or according to the Ordinance;
- (c) prescribing any standard or other conditions which may be required by the Provincial Government in connection with any supply of water to any consumer or group of consumers;
- (d) pursuant to section 3, extending the application of the Ordinance to any new area where the Provincial Government elects to supply water, whether by the same or another water system;
- (e) the form of any notice, Notice of Offence, warrant of authority or other document or thing issued in connection with the operation of the Ordinance.

**Limitation of liability**

6 A new section 19 is hereby inserted in the principal Ordinance as follows:

**“Liability of Provincial Government limited**

19 (1) Subject to sub-sections (2) and (3), the Provincial Government, its servants or agents, shall not be liable, whether in contract, tort or otherwise, for any damage to persons or property caused by the water system, or for any disruption or cessation of the supply of water, or for any failure or inability to supply water or water of a given quality, or for any defects in any installation, fixture or fitting not supplied and installed by the Provincial Government, its servants or agents, as the case may be.

(2) The Provincial Government, its servants and agents may be liable only when any relevant damage, disruption or cessation of supply or inability or failure to supply or any defect in an installation, fixture or fitting is shown to have resulted from negligence on the part of the Provincial Government or its servants or agents as the case may be.

(3) Where water supplied to any consumer is used or intended to be used for any business or commercial purpose, the Provincial Government and the consumer may agree to further restrict the Provincial Government’s liability to the consumer by contract, or to amend or replace the provisions of this section with a different contractual provision.”

Passed by the Provincial Assembly this first day of April, 2008.

This printed impression has been carefully compared by me against the Ordinance passed by the Temotu Provincial Assembly and is found by me to be a true and correct copy of the said Ordinance.

(Peter Richmond McRae)  
Clerk of the Provincial Assembly (Ag)

Assented to by the Honourable Minister of Provincial Government this fifteenth day of April, 2008.

Minister of Provincial Government

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