

ANNEX I – DRAFT TEXT & EXPLANATORY NOTES

NON-PACKAGED DRINKING WATER

EXTRACT FROM FSSB V7

“drinking water” means —

- (a) water that is intended for human consumption or for purposes connected with human consumption (such as the washing, preparation or cooking of food or the making of ice intended for human consumption, or for the preservation of unpackaged food), whether or not the water includes use for other purposes; or
 - (b) water held out as water in paragraph (a),
- but does not include any water intended for consumption solely by animals;

PART 6

PROVISION OF NON-PACKAGED DRINKING WATER

Definitions for Part 6

1.—(1) In this Part —

“alter”, in relation to water, does not include —

- (a) chilling or otherwise changing the temperature of the water;
- (b) adding fluoride to drinking water only to the extent necessary to promote good oral health; or
- (c) where drinking water is supplied using a reticulation system, the addition to drinking water of any contaminant or substance due solely to the contact between the drinking water and any network infrastructure of the reticulation system during the water’s passage;
- (d) conditioning or purifying drinking water using filters or other devices to improve the quality or aesthetic aspects of the drinking water;

“drinking water” does not include packaged drinking water;

“drinking water producer” means a person who carries on drinking water production in the course of business;

“drinking water production” means an undertaking that involves —

- (a) any of the following:
 - (i) water harvesting or collection (including, for example, water storage by means of a tank or other infrastructure);

- (ii) recovering water from a water resource not supplied by a reticulated water system;
- (iii) extracting groundwater or water from the air; and
- (b) treating or recycling the water harvested, collected, recovered or extracted in paragraph (a) to obtain drinking water;

“drinking water service” means a service that involves —

- (a) drinking water production; and
- (b) supplying to another the drinking water obtained from drinking water production in paragraph (a) —
 - (i) by a reticulation system; or
 - (ii) in bulk;

“in bulk”, in relation to supply of drinking water, means to supply an amount of drinking water through the use of a vehicle, being an amount exceeding a volume prescribed by any Part 6 regulations;

“network infrastructure” means the pipes, pumps, tanks, equipment and other elements of a reticulation system;

“reticulation system” means a network for distributing drinking water, or for monitoring or controlling the distribution of drinking water, to premises for human consumption or use;

“supply”, in relation to drinking water, means to make available drinking water either by using a reticulation system or in bulk, and includes —

- (a) to cause or permit the supply of drinking water; and
- (b) to offer to supply drinking water;

“water resource” means —

- (a) a river, creek or other natural watercourse (whether modified or not) in which water is contained or flows whether permanently or from time to time;
- (b) a lake or reservoir;
- (c) the sea.

(2) Despite subsection (1), the term “drinking water service” does not include a service involving —

- (a) the supply of drinking water to a vessel, the supply of which is regulated under the Maritime and Port Authority of Singapore Act 1996;
- (b) the supply to a Singapore ship of drinking water, the supply of which is regulated under the Merchant Shipping Act 1995;
- (c) the supply by a drinking water producer, of drinking water obtained by the drinking water producer from its drinking water production, to the Public Utilities Board and no other person; or

(d) the supply by a person to another of drinking water that has been directly obtained from a drinking water producer subject to this Part, provided that the drinking water from the drinking water producer is not altered or altered to any material degree by the supplier.

(3) This Part does not apply to the supply of packaged drinking water, and any reference in this Part to drinking water and its supply does not include a reference to the supply of packaged drinking water.

Offence of supplying unwholesome drinking water

2.—(1) A drinking water producer providing a drinking water service commits an offence if any drinking water supplied in the course of providing that service is unwholesome.

(2) In proceedings for an offence under subsection (1) —

(a) it is not necessary for the prosecution to prove that a defendant knew or had reason to believe that the drinking water is unwholesome; but

(b) it is a defence to the charge for the defendant to prove, on a balance of probabilities, that the defendant took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by the defendant and by any person under the control of the defendant.

(3) A person who is guilty of an offence under subsection (1) shall be liable on conviction to a fine not exceeding \$20,000 and, in the case of a continuing offence, to a further fine not exceeding \$1,000 for every day or part of a day during which the offence continues after conviction.

(4) For the purposes of this Part, drinking water is unwholesome unless the water —

(a) conforms to the prescribed requirements in any Part 6 regulations concerning the quality, purity and general appearance of drinking water; and

(b) does not, based on any prescribed methodology or assessment in any Part 6 regulations, contain any contaminant, substance or organism, either alone or in any combination, at a concentration or value that constitutes a potential danger to human health.

(5) In subsection (4), “general appearance”, in relation to drinking water, includes the colour and clarity of the water.

Directions for unwholesome drinking water incident, etc.

3.—(1) The Director-General may, in any of the circumstances described in subsection (2), give a written direction under this section to all or any of the following:

(a) a proprietor of a food business, whether or not a food business licensee;

(b) a drinking water producer providing a drinking water service;

- (c) a person who supplies drinking water that has been directly obtained from the Public Utilities Board or another drinking water producer;
 - (d) a person who has a duty to control, manage and administer any common property comprising any network infrastructure for distributing drinking water from the Public Utilities Board or another drinking water producer to occupants of premises in a subdivided building; and common property has the meaning given by the Building Maintenance and Strata Management Act 2004.
- (2) A written direction may be given under subsection (1) where the Director-General reasonably believes that —
- (a) drinking water supplied or to be supplied by a drinking water producer as part of a drinking water service is unwholesome, or may be the means by which an illness is being, or has been, or will be, transmitted; or
 - (b) a direction is necessary for the purposes of averting, eliminating or minimising a risk, or a perceived risk, to human health among the general public in relation to drinking water.
- (3) A written direction under subsection (1) may require the person to whom it is addressed to do or not to do any thing reasonably required for the purpose for which the notice is given, including one or more of the following:
- (a) a requirement that the person discontinue, or not start, a specified activity indefinitely or for a specified period or until further notice from an authorised officer;
 - (b) a requirement that the person not carry on a specified activity except subject to specified conditions;
 - (c) a requirement that the person take specified action in a specified way, and within a specified period or at specified times or in specified circumstances;
 - (d) a requirement that the person take action to prevent, eliminate, minimise or control any specified risk to the general public in relation to drinking water, or to control any specified activity;
 - (e) a requirement that the person comply with any specified standard, guideline or code in relation to drinking water which is prepared or published by the Agency and referred to in the written notice;
 - (f) a requirement that the person undertake specified tests or monitoring in relation to drinking water;
 - (g) a requirement that the person provide an authorised officer referred to in the notice or to the Agency specified results or reports;
 - (h) a requirement that the person prepare, in accordance with specified requirements and to the satisfaction of the Agency, a plan of action to secure compliance with a relevant requirement or to prevent, eliminate, minimise or control any specified risk to human health among the general public in relation to drinking water;

- (i) in the case of a drinking water producer providing a drinking water service, to notify affected consumers that drinking water supplied by the drinking water producer as part of a drinking water service should be boiled, treated in some other way before drinking.

(4) A reference in subsection (1) to the Director-General includes a reference to an authorised officer duly appointed by the Director-General to act for him or her.

Offence of not complying with section 118 direction

4.—(1) A person to whom a written direction under section 118(1) is addressed and given commits an offence if the person —

- (a) intentionally carries on an activity in contravention of the direction;
- (b) neglects or refuses to comply with the direction; or
- (c) fails to comply with a condition specified in the direction.

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction —

(a) where the person is an individual —

- (i) to a fine not exceeding \$15,000 or to imprisonment for a term not exceeding 6 months or to both; or
- (ii) where the individual is a repeat offender — to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding 12 months or to both; or

(b) where the person is not an individual —

- (i) to a fine not exceeding \$30,000; or
- (ii) where the person is a repeat offender — to a fine not exceeding \$60,000.

(3) Subsection (2) does not apply if the person has a reasonable excuse.

(4) In subsection (2), “repeat offender”, in relation to an offence under this section, means a person who —

- (a) is convicted, or found guilty, of such an offence (referred to as the current offence); and of the same offence; and
- (b) has been convicted or found guilty, on at least one other earlier occasion within the period of 5 years immediately before the date on which the person is convicted or found guilty of the current offence, of an offence under this section.

Part 6 regulations

5.—(1) The Agency may, with the approval of the Minister, make regulations prescribing anything that is required or permitted to be prescribed under Part 6 or is otherwise necessary or convenient for carrying out or giving effect to Part 6.

(2) Without limiting subsection (1), those regulations may —

- (a) require the furnishing of reports, returns, documents or other forms of information relevant to quality or supply of drinking water, or to any other process or other matter associated with the supply of drinking water, to the Agency;
- (b) require the keeping of records, statistics and other forms of information by a drinking water producer that provides a drinking water service, and the provision of reports based on that information, to the Agency;
- (c) prescribe standards and other requirements that must be observed or applied in relation to the quality or supply of drinking water by drinking water producers providing a drinking water service;
- (d) make provision with respect to the monitoring of drinking water quality, or any component or characteristic of drinking water, including with respect to the method, collection and analysis of samples;
- (e) require —
 - (i) identification of hazards and hazardous events which may affect the quality of drinking water obtained by a drinking water producer and to which a drinking water service provided by the drinking water producer relates;
 - (ii) an assessment of the risks posed by the hazards and hazardous events; and
 - (iii) how a drinking water producer providing the drinking water service intends to manage the risks posed by the hazards and hazardous events in order to minimise the likelihood of the drinking water becoming unwholesome; and
- (f) provide that any contravention of any provision of the regulations shall be an offence punishable with a fine not exceeding \$10,000 and, in the case of a continuing offence, with a further fine not exceeding \$1,000 for every day or part of a day during which the offence continues after conviction.

(3) Regulations made under this section may apply —

- (a) in respect of all drinking water producers or particular categories of drinking water producers;
- (b) in respect of the provision of all drinking water services or particular types of drinking water services.

EXPLANATORY NOTES

Part 6 consists of 4 clauses which deal exclusively with the safety of drinking water supply in Singapore. The provisions incorporate with some changes the scheme in Part 9 of the Environmental Public Health Act 1987, which will be repealed.

Drinking water in this Part refers to piped or non-packaged drinking water.

Clause 116 contains definitions of terms used specially in Part 6. The key terms are the “drinking water producer” and “drinking water service” because these form the key elements of the scheme.

A drinking water producer is defined to mean a person who carries on drinking water production in the course of business. The Public Utilities Board (PUB) is an example of a drinking water producer.

Drinking water production refers to an undertaking that involves —

- (a) water harvesting or collection (including, for example, water storage by means of a tank or other infrastructure), recovering water from a water resource not supplied by a reticulated water system (like a reservoir), or extracting groundwater (such as a well) or water from the air; and
- (b) treating or recycling the water harvested, collected, recovered or extracted to obtain drinking water.

As Part 6 applies to a drinking water producer who provides a drinking water service, clause 116 also defines “drinking water service” to mean a service that involves first, drinking water production and then, supplying to another the drinking water obtained from drinking water production by either or both methods, viz.

- (a) by a reticulation system; or
- (b) in bulk.

This is unlike Part 9 of the Environmental Public Health Act 1987 which regulates the providers of drinking water to the public or a section of the public.

However, certain supply of drinking water is excluded from being a drinking water service. These includes a supply of drinking water regulated under other written law, and the supply of drinking water solely to the PUB by another drinking water producer e.g. desalination works under the Design-Build-Own-Operate scheme. However, if any of these drinking water producers supply the drinking water produced also to their employees or guests, then the drinking water producer will be treated as providing a drinking water service.

Finally, a supply to another of drinking water obtained directly from a drinking water producer without any altering of the drinking water is also not to be regarded as a drinking water service.

By clause 116(1), drinking water is not treated as altered if it is chilled or its temperature is otherwise changed, or the drinking water is fluoridated to the extent which is solely to promote good oral health, or impurities entering drinking water due solely from the passage of water in the network infrastructure.

The application of water conditioning devices to drinking water, like alkaline water units, and purification devices (which may include filters, ultraviolet light or a remineralization unit) are also not treated as altering the water.

Clause 117 provides that a drinking water producer providing a drinking water service commits an offence if any drinking water supplied in the course of providing that service is unwholesome.

The offence is a strict liability offence. However, it is a defence for the defendant to prove, on a balance of probabilities, that the defendant took all reasonable precautions and exercised all due diligence to avoid the commission of the offence by the defendant and by any person under the control of the defendant.

Drinking water is defined as unwholesome unless the water conforms to the prescribed requirements in any Part 6 regulations concerning the quality, purity and general appearance of drinking water, and

does not, based on any prescribed methodology or assessment in any Part 6 regulations, contain any contaminant, substance or organism, at a concentration or value that constitutes a potential danger to human health.

The Agency's power to make Part 6 regulations is outlined by clause 282.

Clause 118 empowers the Director-General, Food Administration to respond to incidents where drinking water supplied or to be supplied by a drinking water producer as part of a drinking water service is unwholesome, or may be the means by which an illness is being, or has been, or will be, transmitted.

The Director-General, Food Administration is also conferred power to avert, eliminate or minimise a risk, or a perceived risk, to human health among the general public in relation to drinking water.

The response will be in the form of written directions given to all or any of the following:

- (a) a proprietor of a food business, whether or not a food business licensee;
- (b) a drinking water producer providing a drinking water service;
- (c) a person who supplies drinking water that has been directly obtained from the Public Utilities Board or another drinking water producer;
- (d) condominium management corporations, Town Councils and like persons who manage and maintain any common property comprising any network infrastructure for distributing drinking water to occupants of premises in a subdivided building.

The written directions to any of the above person can range from stopping certain activities, taking remedial steps to restore water quality, to requiring a drinking water producer providing a drinking water service to notify affected consumers that drinking water supplied by the drinking water producer as part of its drinking water service should be boiled, treated in some other way before drinking.

Clause 119 makes it an offence for a person given a direction under clause 118 to intentionally carry on an activity in contravention of the direction, to neglect or refuse to comply with the direction, or to fail to comply with a condition specified in the direction.