



# Water (Wellhead Protection) Regulations 2020

No. 2020/03

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Pursuant to sections 51 and 66 of the Water Act 2012, Cabinet makes the following regulations –

- 1 Title**  
These regulations are the Water (Wellhead Protection) Regulations 2020.
- 2 Commencement**
  - (1) These regulations come into force on the day after the date on the day after the date on which these regulations are made in accordance with Article 13 of the Constitution.
- 3 Interpretation**
  - (1) In these regulations, unless the context otherwise requires, –  
**Act** means the Water Act 2012

**bore or borehole** means any bore, well, gallery, cave, or any artificially constructed or improved underground cavity;

**Environment Director** means the Director of the public authority responsible for the environment;

**water** includes all groundwater, aquifers, cave waters, seawater, and rainwater;

**wellhead** includes a bore and any pump, valve, pipe, duct, channel, drain, or any other means used or intended to be used to withdraw water from a bore;

**zone 1, zone 2, and zone 3** mean the designated wellhead protection zones.

- (2) Any term or expression that is defined in the Act and used, but not defined, in these regulations has the same meaning as in the Act.

## **Part 1**

### **Wellhead protection plans**

#### **4 Wellhead protection plans**

- (1) Every water bore must have a wellhead protection plan issued by the Director of the public authority responsible for water supply;
- (2) The wellhead protection plan will assess and identify potential sources of pollution and the susceptibility of the water supply to pollution;
- (3) The wellhead protection plan will establish a contingency plan that is to be adopted in the event that the quality of water may be compromised;
- (4) Subject to section 51 of the Act, a wellhead protection plan may be amended to allow certain prohibited activities within a wellhead protection zone provided that a water pollution control licence with specified conditions has been granted.

## **Part 2**

### **Wellhead protection zones**

#### **5 Wellhead protection zones**

- (1) Wellhead protection Zone 1 is the area within a distance of 50 metres radius from the centre of the wellhead borehole.
- (2) Wellhead protection Zone 2 is the area within a distance of 100 metres radius from the centre of the wellhead borehole;
- (3) Wellhead protection Zone 3 is the area within a distance of 150 metres radius from the centre of the wellhead borehole.

**Part 3**  
**Prohibited Activities**

**6 Prohibited activities**

- (1) Subject to regulation 7 the following activities are prohibited within wellhead protection zone 1 –
- (a) Food, livestock or agricultural processing, including fish processing;
  - (b) Timber milling;
  - (c) Power generating facilities;
  - (d) Aircraft facilities;
  - (e) Fuel storage facilities and retail outlets;
  - (f) Service stations;
  - (g) Mechanical repair depots;
  - (h) Waste collection and disposal sites and facilities;
  - (i) Hospitals;
  - (j) Sewage treatment and conveyance or disposal operations;
  - (k) Premises storing more than 1000 litres of oil;
  - (l) Premises storing commercial quantities of agricultural chemicals or pesticides;
  - (m) Chemical storage facilities;
  - (n) Chemical industries or works for the commercial production of, or research into, chemical substances;
  - (o) Extractive industries;
  - (p) Commercial intensive livestock activities including piggeries;
  - (q) Logging operations;
  - (r) Mining exploration and operations;
  - (s) Manufacturing and processing industries including desalination;
  - (t) Tourism operations of more than 10 beds;
  - (u) Wash down pads and premises;
  - (v) Marine powered vessels;
  - (w) Burial or interment of bodies or human remains.
  - (x) Burial or disposal of animal carcasses.
- (2) Subject to regulation 7 the following activities are prohibited within wellhead protection zone 2 –
- (a) The location or operation of waste collection and disposal sites and facilities;
  - (b) Hospitals;
  - (c) sewage treatment and conveyance or disposal operations;



- (d) premises storing commercial quantities of agricultural chemicals or pesticides;
  - (e) chemical storage facilities;
  - (f) chemical industries or works for the commercial production of, or research into, chemical substances;
  - (g) commercial intensive livestock activities, including piggeries;
  - (h) tourism operations with more than 10 beds;
  - (i) swimming pools.
- (3) Subject to regulation 7 the following activities are prohibited within wellhead protection zone 3—
- (a) Hospitals;
  - (b) sewage treatment and conveyance or disposal operations;
  - (c) premises storing commercial quantities of agricultural chemicals or pesticides;
  - (d) chemical storage facilities;
  - (e) chemical industries or works for the commercial production of, or research into, chemical substances;
  - (f) commercial intensive livestock activities, including piggeries;
  - (g) tourism operations with more than 10 beds.

**7 Water pollution control licence**

- (1) Any person, Village Council or public authority wishing to undertake any activity listed in Schedule 2 of the Act or as otherwise provided by these regulations, within a wellhead protection zone must apply to the Environment Director for a water pollution control licence pursuant to Part 5 of the Act.

**Part 4**

**General and miscellaneous provisions**

*Offences*

**8 Breach of a wellhead protection plan**

A person who authorises, establishes, undertakes or engages in any of the activities referred to in Schedule 2 of the Act or as provided by these regulations, within the specified protection zones without authorisation commits an offence and is liable on conviction, —

- (a) in the case of an individual, to a fine not exceeding 5000 penalty units; or;

- (b) in the case of a body corporate, to a fine not exceeding 10,000 penalty units, and/or to imprisonment for a term not exceeding 20 years for a Director of the body corporate;


### Schedule

- (2) Activities that require water pollution control licence
  - (a) Food, livestock or agricultural processing, including fish processing.
  - (b) Timber milling.
  - (c) Power generating facilities.
  - (d) Aircraft facilities.
  - (e) Fuel storage facilities and retail outlets.
  - (f) Service stations.
  - (g) Mechanical repair depots.
  - (h) Waste collection and disposal sites and facilities.
  - (i) Hospitals.
  - (j) Sewage treatment and conveyance or disposal operations.
  - (k) Premises storing more than 1000 litres of oil.
  - (l) Premises storing commercial quantities of agricultural chemicals or pesticides.
  - (m) Chemical storage facilities.
  - (n) Chemical industries or works for the commercial production of, or research into, chemical substances.
  - (o) Extractive industries.
  - (p) Commercial intensive livestock activities including piggeries.
  - (q) Logging operations.
  - (r) Mining exploration and operations.
  - (s) Manufacturing and processing industries including desalination.
  - (t) Tourism operations of more than 10 beds.
  - (u) Wash down pads and premises.
  - (v) Marine powered vessels.

Approved by the Cabinet of Ministers at the Cabinet Chambers, Fale Fono,  
Alofi,

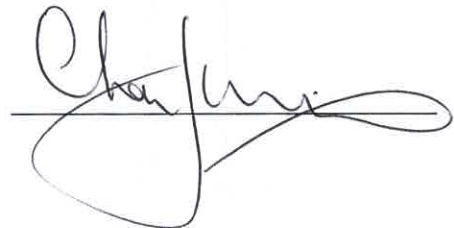
this 1<sup>st</sup> day of April 2020.

**Signed** by Hon. Toke Tufukia Talagi  
**Premier**



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**Countersigned** by Charlene Funaki  
**Clerk to Cabinet**



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These regulations are administered by the Department of Utilities.  
These regulations were made on the 1<sup>st</sup> day of April 2020.

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