

Compliance



Consequences of a Breach

- Consequences under the *Water Act* could include:
 - Prosecution or other enforcement action
 - Financial penalties (maximum is usually \$7,500, but in some cases this is increased to amounts of \$15,000 and \$37,500)
 - Imprisonment is a possibility in some cases
 - Action to recover debts, profits or damages



Chapter 4 – Water Authorities

- Sets maximum financial penalties for particular offences
- Indicates when imprisonment is a possibility
- Allows civil action to be taken in some cases to recover profits, losses or damages suffered (s.585)
- Allows personal liability for the authority's debts to be imposed in certain cases (s.616)

Court-ordered Examination

- Provision in s.617 for the Attorney-General to apply to the Supreme Court or the District Court for an order requiring a person to be examined on oath about matters relating to a water authority's management, administration or affairs
- Generally examination is held in public
- Significant penalties for non-attendance and failure to cooperate

Relief from Liability

- Power in s.618 for the Supreme or District Court to grant relief from liability (in whole or in part), on terms set by the Court
- Could be used in cases of liability for negligence, default, breach of trust or breach of duty as an officer or employee of the water authority
- Must apply to the Court for relief



Relief from Liability

- Whether relief is granted is a matter for the court's discretion
- Court must be satisfied
 - The person is or may be liable
 - The person has acted honestly
 - Having regard to the circumstances of the case, the person ought fairly to be excused for the negligence, default or breach



Chapter 5 – Investigations, Enforcement and Offences

- Sets out powers of authorised officers under the Act
- Provides for issue of show cause and compliance notices
- Provides for commencement of enforcement order proceedings
- Sets out some offences for Chapter 3 (service providers) and some general offences under the Act



Chapter 7 – Legal Proceedings

- Provides for commencement of prosecution actions
- Note: other laws (i.e. apart from the *Water Act*) may also apply with respect to non-compliance