CHAPTER 355

WATER SERVICES CORPORATION ACT

To provide for the establishment of a body corporate to be known as the Water Services Corporation, and for the exercise and performance by or on behalf of the Corporation of functions related to the acquisition, transformation, manufacture, distribution and sale of potable and non-potable water, and, as appropriate, to the treatment and disposal or re-use of sewage and waste water, and re-use of stormwater run-off, to provide for the transfer to the Corporation of certain installations, equipment or other property, and to make provision in respect of matters ancillary thereto or connected therewith.

20th January, 1992
1st August, 1992
1st September, 1997
1st December, 1997
1st October, 2003

ACT XXIII of 1991 as amended by Legal Notice 129 of 1992; Acts XV of 1995, XVI of 1997, XXV of 2000 and XXVII of 2007; Legal Notices 425 of 2007 and 42 of 2010; and Acts XXXIV of 2014 and XXV of 2015.

ARRANGEMENT OF ACT

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SCHEDULE

PART I

Preliminary

Short title.

1. The short title of this Act is the Water Services Corporation Act.

Interpretation.
Amended by: XXVII. 2007.27.

2. (1) In this Act, unless the context otherwise requires -

"apparatus" includes vehicles, all machines, devices and fittings used in the pumping, desalination, treatment or transport of water and waste water;

"appointed day", in relation to the provisions of Part IV of this Act, means the day or days on which article 32 comes into force* with respect to such public undertakings as may be transferred by virtue of that article;

"Board" means the Board of the Corporation established by article 5;

"Chairman", "Deputy Chairman" and "Member" mean the Chairman, the Deputy Chairman and a member of the Board respectively;

"Chief Executive" means the Chief Executive of the Corporation appointed in accordance with article 5(5);

"cistern" means any reservoir, tank (excluding roof tank), pond, or other receptacle, used or intended to be used for collecting or storing water, whether situated or constructed above or below ground, covered or uncovered;

"collecting area" means that surface or area of lands, roads, sites, or buildings, the rain falling upon which causes or contributes to any stream or deposit of surface water;

"conduit" means any channel, ditch, gutter, pipe or aqueduct, made or intended for the conveyance of water which is to be collected, stored, or in any way utilized;

"consumer" means the person or body corporate to whom services are rendered by the Corporation;

"Corporation" means the Water Services Corporation established by this Act;

"director" means a director of the Corporation under this Act;

"domestic sewage" means the contents of lavatories and water which has been used for cooking or washing, and other waste water ordinarily removed from domestic premises, but does not include surface water removed from buildings and from land occupied with, and appurtenant to, the building, nor any waste water other than the contents of lavatories and other water used for personal hygiene and similar purposes, removed from trade premises, or from any laundry;

"domestic supply" means a supply of water made to a tenement to meet the ordinary and reasonable requirements of the domestic

*20th January, 1992 - *see* Legal Notice 7 of 1992.

life of the person or persons residing in the tenement;

"financial year" means the period of twelve months ending on the thirty first day of December;

"irrigation area" means any area so declared by order of the Minister responsible for agriculture;

"gallery" means an underground passage made in searching for a spring, or for collecting the waters of a spring or through which the waters of a spring may flow from one point to another, in the context of groundwater exploitation;

"licence" means any permit or authority given in writing by the Corporation mentioned in article 44 hereof;

"mains" means a pipe laid for the purpose of giving a general supply of water as distinct from a supply to individual consumers and includes any apparatus in connection with such pipe;

"Minister" means the Minister responsible for water and includes any person authorised by such Minister in that behalf;

"officer" and "other employees" in relation to the Corporation include any public officer detailed for duty with the Corporation;

"person" includes any body of persons or any body corporate established by the law;

"public officer" has the same meaning as is assigned to it in article 126 of the Constitution;

"public undertaking" means any undertaking or installation, and any apparatus, instrument, device or plant and all things accessory or ancillary thereto which, immediately before the appointed day*, were vested in or belonged to the Government by whatever title and were operated by it for the purposes of producing, storing and distributing water or collecting and disposing or treating of sewage, waste water or stormwater run-off;

"premises" includes lands, buildings, houses and any other structure whatsoever;

"prescribed" means prescribed by regulations, rules or orders made under or kept in force by this Act;

"sea-craft" includes floating tanks for the supply of water to any sea vessels;

"service" means a conduit made for the purpose of conveying water from the water works to any tenement, for the exclusive use of the owner or occupier thereof, or for any use or purpose within the same tenement;

"spring" means water existing or flowing naturally underground, continually or from time to time, whether the said water escapes or flows on the surface or not;

"stormwater run-off" shall include rainwater which is not absorbed by the ground or which does not evaporate and which is

*20th January, 1992 - *see* Legal Notice 7 of 1992.

not collected in cisterns;

"tenement" includes any part of a tenement provided with a constant supply, normally metered separately;

"trade effluent" means any liquid (either with or without particles of matter in suspension or dissolved in it) other than surface water and domestic sewage, which is discharged from premises used for carrying on any commercial or industrial activity;

"trade premises" means any land or building, used partly or in whole for the purpose of undertaking any commercial or industrial activity. For the purpose of this definition, it also means any premises wholly or mainly used (whether for profit or not) for agriculture or horticultural purposes or for scientific research or experiment;

"watercourse" means any ditch, valley, ravine, gutter, channel or pipe, through or along which spring or surface-water flows continually or from time to time;

"water fittings" includes pipes other than mains, taps, cocks, valves, ferrules, meters, cisterns, baths, water closets, and other similar apparatus used in connection with the supply and use of water;

"water pump" means any mechanical device for the purpose of raising, boosting and/or circulating water from any source or place whatsoever; and a water pump shall be deemed to have been installed on a site when its component parts have been assembled as to be reasonably deemed to be in a condition to raise, boost, and/or circulate water from any source or place whatsoever and "installation" shall be construed accordingly;

"water resources" means water which for the time being is:

(*a*) contained in any mains or service;

(*b*) inland water as is situated therein such as ponds or reservoirs; and

(*c*) any underground strata, including water for the time being contained in a well, borehole or similar work or in any excavation into underground strata where the level of water in the excavation depends wholly or mainly on water entering it from those strata;

"waterworks" means all collecting areas, conduits (except all such conduits as are "services" within the meaning of this Act), cisterns, wells, galleries, dams, weirs, machines, pumps, valves, sluices, and other appliances which are used or intended to be used for obtaining, pumping, raising, collecting, processing, desalination, polishing, storing or conveying water which is to be supplied or distributed; and includes those works in which water is received or contained or by which water is conveyed, supplied or distributed;

"wholesome water" means water the quality of which is in accordance with standards set by the Department of Health in the light of circumstances prevailing at the time.

(2) Any reference in this Act to regulations, rules or orders made under this Act shall include a reference to regulations, rules or orders kept in force by this Act.

PART II

Constitution, Functions and Composition of the Water Services Corporation

Establishment and functions of the Water Services Corporation. *Amended by: XXV. 2000.36; XXVII. 2007.28; XXV. 2015.41.*

3. (1) There is hereby established a corporation to be known as the Water Services Corporation.

(2) Subject to the provisions of this Act and to any requirement provided under any other law, the Corporation may -

(*a*) to acquire, produce, keep, distribute, sell, export or otherwise dispose of water for domestic, commercial, industrial or other purposes;

(*b*) to conserve, augment and operate water resources and sources of water supply;

(*c*) to undertake and perform such other functions relating to water conservation, supply and distribution as it may deem appropriate;

(*d*) to provide for the treatment and for the disposal or re-use, as appropriate, of sewage and waste water;

(*e*) to provide as appropriate for the use of stormwater run-off from urban and rural areas;

(*f*) to generate new forms and services of revenue, even if not directly or indirectly related to the use of water for domestic, commercial, industrial or other purposes.

(3) Subject to the provisions of this Act, and to any requirement provided under any other law, it shall be the duty of the Corporation -

(*a*) to develop, maintain and promote a safe and efficient production and distribution system in order to satisfy, as economically as possible, all reasonable demands for water;

(*b*) to determine the short-term and long-term objectives of the Corporation in relation to water supply, disposal and re-use and to develop the necessary strategy and policies to reach these objectives;

(*c*) (i) to provide, improve and extend such a system of public sewers and to cleanse and maintain these sewers so as to ensure that the drainage system operates and continues to operate safely and effectively;

(ii) to make provisions for the operation of these sewers and such further provisions as are necessary from time to time for effectively dealing with the contents of these sewers by means of sewage treatment and disposal works

or otherwise;

(*d*) to have regard in performing its duty under this subarticle of the need to provide for the treatment and disposal or otherwise of trade effluent;

(*e*) to promote the proper disposal of waste water and stormwater run-off;

(*f*) to advise the Minister on any matter relating to any of its functions under this Act;

(*g*) to manage and operate all undertakings and other installations and all property, transferred to and vested in the Corporation by virtue of this Act or otherwise acquired by the Board for the purposes of any of its functions;

(*h*) to hold and administer and, if and when it thinks fit, to realise any assets it may hold from time to time;

(*i*) to promote the reasonable use of water and encourage the conservation and appropriate re-use of water resources;

(*j*) to carry out tests relating to water fittings for the purpose of preventing the waste, undue consumption, misuse, erroneous measurement or contamination of water;

(*k*) to provide training courses and other schemes in connection with the furthering of the science and technology of water management;

(*l*) to collaborate with other local organisations in placing and coordinating services including water purification, electrical power, telecommunications, road services, agriculture and industry; and

(*m*) to promote and undertake alone or in collaboration with other institutions, the research and development of new technology and new ideas in the production and treatment of water, in distribution and disposal networks, water desalination and polishing, sewage treatment disposal and re-use, plant, transport and equipment, water resources management and water catchment management.

(4) For the purpose of any of its functions, the Corporation may, subject to the provisions of this Act -

(*a*) acquire, construct, reconstruct, maintain and operate any installation;

(*b*) acquire any property which the Corporation considers necessary or expedient for the purposes of constructing, extending or maintaining any installation or otherwise carrying out its functions under this Act;

(*c*) do all acts and things necessary for the purpose of carrying out its functions under this Act: provided that the opening and breaking up of the surface of any

street for any of the purposes aforesaid shall not be undertaken without the approval of the Authority for Transport in Malta;

(*d*) carry on, whether as principal or as agent or as a contractor, or in collaboration with any other person or persons, all such other activities as may appear to the Corporation requisite, advantageous or convenient to be carried out for or in connection with the performance of any of its functions under this Act or in order to make the best use of the assets of the Corporation;

(*e*) exercise, perform, discharge and delegate all such rights powers, duties and functions as are by or under this Act vested in or assigned to the Corporation;

(*f*) do all such acts as may be necessary or conducive for the proper performance or attainment of its functions;

(*g*) do all such other acts as are incidental to or consequential upon the exercise, performance and discharge of its powers, duties and functions under this Act or for the attainment of the functions of the Corporation;

(*h*) hold and administer and, if and when it thinks fit, realize any assets it may hold from time to time.

(5) For the purpose of its functions under this Act, and with the written authority of the Minister, the Corporation may grant to any third party of its choice the right to carry on or engage in or perform, whether in whole or in part, and whether as operator, concessionaire, manager, independent contractor or otherwise, any functions, activities, operations, duties or transactions which the Corporation is authorised and empowered or obliged to carry on or engage in or perform under or in accordance with this Act:

Provided that this subarticle shall not be interpreted as exempting any person so authorized by the Corporation from complying with the requirements of any other law.

(6) In carrying out its functions at law, the Corporation shall:

(*a*) ensure that it is in possession of any licences, permits or authorizations, howsoever described, as it is required to have at law and that it abides with any conditions as may be imposed in any such licences, permits or authorisations;

(*b*) be subject to and abide by any laws, orders, directives, standards, and other legal requirements howsoever described, as may be imposed by or under the Regulator for Energy and Water Resources Act or any other law; Cap. 545.

(*c*) carry out such functions directly through its officials or employees, or indirectly through contractors, licencees or other agents, no matter how appointed as long as they are properly authorized, and for such

purpose the Corporation may issue such agents with such licences or other authority as the Corporation may deem necessary.

Legal personality and representation of the Corporation.

4. (1) The Corporation shall be a body corporate having a distinct legal personality and shall be capable, subject to the provisions of this Act, of entering into contracts, of acquiring, holding and disposing of any kind of property or rights for the purposes of its functions, of suing and being sued, and of doing all such things and entering into all such transactions as are conducive or incidental to the exercise or performance of its functions under this Act.

(2) The legal representation of the Corporation shall vest in the Chairman or in such other member or members of the Board of Directors as the Board may by resolution designate. Any such resolution shall be published in the Government Gazette as soon as may be after approval and shall not have effect until it is so published:

Provided that the Board may delegate any of its powers to any of its members or to any of its officers or servants and may authorise any such person to appear on any contract, deed or other instrument for or on behalf of the Corporation and to sign for or on its behalf any such contract, deed or instrument, as well as any other document, including cheques and bills of exchange and the Board may also ratify and accept any thing done for and on its behalf without such authority.

Establishment and composition of the Board.
Amended by: XXVII. 2007.29.

5. (1) There shall be a Board of the Corporation, hereinafter referred to as the Board, which shall be responsible for the formulation of the policy of the Corporation and to whom the Chief Executive shall be responsible for the general administration of the affairs and business of the Corporation.

(2) The Board shall consist of not more than nine members appointed by the Minister. The Minister shall designate one of the appointed members as chairman and another such member as deputy chairman and such other member shall have all the powers and perform all the functions of the chairman during his absence or until a new chairman has been appointed following resignation, termination of appointment or death of the chairman.

(3) The Minister shall designate one of the appointed members as Chairman and another such member as Deputy Chairman. The Deputy Chairman shall have all the powers and perform all the functions of the Chairman during his absence or until a new Chairman has been appointed following the resignation, termination of appointment or death of the Chairman.

(4) The Chairman and all the other appointed members of the Board shall be appointed by the Minister from amongst persons, appearing to him to have had experience, and shown capacity, in matters relating to water technology, or water or waste water management, or the organisation of workers, or of finance or administration, and after having taken regard of their experience and familiarity with the requirements and circumstances of

agriculture, industry, commerce and tourism and with matters related to the conservation of the environment and the development of public amenities.

The members shall receive out of the funds of the Corporation such remuneration as the Minister may from time to time determine.

(5) Subject to the provisions of this Act, and to any directions of the Board, the executive conduct of the Corporation, its administration and organization and the administrative control of its officers and other employees shall be the responsibility of the Chief Executive Officer of the Corporation who shall also have such other powers as may from time to time be delegated to him by the Board.

The Chief Executive Officer shall be responsible for the implementation of the business plan and budget of the Corporation.

The Chief Executive Officer shall be responsible towards the Board of Directors and may be invited to attend and be heard at all meetings of the Board. He shall not, however, have a vote or be counted for the purpose of constituting a quorum.

(6) The provisions of the Criminal Code in respect of public officers or servants shall apply to the members of the Board, the Chief Executive and all other officers and employees of the Corporation. Cap. 9.

Works Council. *Substituted by: XXVII. 2007.30.* S.L. 452.96

6. A Works Council, in terms the Employee (Information and Consultation) Regulations, shall be set up by the Corporation and the Chief Executive Officer shall ensure that it meets at least once a month.

Duration of appointment to the Board of Directors. *Amended by: XXVII. 2007.31.*

7. Subject to the provisions of articles 8 and 10, the appointed members of the Board shall hold office for such period and on such terms and conditions as the Minister may deem appropriate; and a member shall, on ceasing to be a member, be eligible for reappointment:

Provided that the Minister may at any time terminate the appointment of any appointed member of the Board if, in his opinion, such member is unfit to continue in office or has become incapable of properly performing his duties as a member of the Board or fails to attend the meetings of the Board without reasonable cause for at least three successive meetings.

Disqualification from being a member of the Board of Directors. *Amended by: XXVII. 2007.32.*

8. A person shall be disqualified for appointment or for remaining a member of, the Board if he -

(*a*) is a member of the House of Representatives, or

(*b*) is legally incapacitated, or

(*c*) under the law of any country has been adjudged bankrupt or has made a composition or arrangement with his creditors, or

(*d*) has been convicted of a crime affecting public trust or theft or fraud or of knowingly receiving property

obtained by theft or fraud, or

(*e*) has any financial or other interest in any enterprise or activity as is likely to affect prejudicially the discharge by him of his functions as a member of the Board.

Temporary retirement from sittings of the Board.

9. Any member who has a direct or indirect interest in any contract made or proposed to be made by the Corporation, not being an interest which disqualifies such member from remaining a member, shall disclose the nature of his interest at the first meeting of the Board after the relevant facts have come to his knowledge, and after the disclosure has been recorded in the minutes of the Board, that member shall withdraw from any meeting at which such contract is discussed or decided on by the Board.

Resignation from the Board and publication of appointment and termination of office. *Amended by: XXVII. 2007.33.*

10. (1) A member of the Board may resign his office by letter addressed to the Minister.

(2) The appointment of any person as member of the Board and the termination of office of any such member shall be notified in the Government Gazette.

Meetings of the Board.

11. (1)(*a*) The Board shall meet as often as may be necessary or expedient, but in no case less frequently than once every three months. The meetings of the Board shall be called by the Chairman either on his own initiative or at the request of any two of the other members.

(*b*) Without prejudice to the other requirements of this Act no decision shall be valid which is not supported by at least two members of the Board or which is taken at a meeting of the Board at which the Chairman, or in his absence the Deputy Chairman, is not present.

(2) Half the number of members for the time being constituting the Board shall form a quorum at any meeting. Decisions shall be adopted by a simple majority of the votes of members present. In the event of an equality of votes, the Chairman, or in his absence the Deputy Chairman, shall have and exercise a second or casting vote.

(3) Minutes must be kept of the proceedings of the Board and of any committee thereof.

(4) Subject to the provisions of this Act, the Board may regulate its own procedure.

Validity of the acts of the Board.

12. (1) Subject to the provisions of article 11, no act or proceeding of the Board shall be invalidated merely by reason of any vacancy among the members.

(2) All acts done by any person acting in good faith as a member of the Board shall be valid as if he were a member, notwithstanding that some defect in his appointment or qualification be afterwards discovered. No act or proceeding of the Board shall be questioned on the ground of the contravention by a member of the provisions of article 9.

Staff appointments. *Substituted by: XXVII. 2007.34.*

13. Subject to the provisions of the Constitution and of any other enactment applicable thereto, and without prejudice to the other provisions of this Act, the appointment of officials and other employees of the Corporation shall be made in accordance with such directives as may be established from time to time by the Minister after consulting the Minister responsible for finance.

Improving the skills of employees.

14. The Corporation shall make provision for improving the skill of persons employed by it and in doing so shall comply with any scheme for training and education in force under paragraph (*k*) of article 3(3).

Powers of the Minister in relation to the Board.

15. The Minister may in relation to matters that appear to him to affect the public interest, from time to time give to the Board directions in writing of a general character, not inconsistent with the provisions of this Act, on the policy to be followed in the carrying out of the functions vested in the Corporation by or under this Act, and the Board shall give effect to all such directions as soon as practicable.

Duties of the Board towards the Minister.

16. The Board shall afford to the Minister facilities for obtaining information with respect to the property and activities or prospective activities of the Corporation and furnish him with returns, accounts and other information with respect thereto, and afford him facilities for the verification of information furnished, in such manner and at such times as he may reasonably require.

Exemption from taxation. *Amended by: XV.1995.9.*

17. (*deleted by XXVII. 2007.35.*).

Duties of the Corporation in relation to the supply of water. *Substituted by: XXV. 2000.36. Amended by: XXV. 2015.41.*

18. (1) Subject to the provisions of this Act and to any requirement under any other law, the Corporation may -

(*a*) supply water to such persons, in such manner and under such conditions as may be authorised by the Regulator for Energy and Water Resources;

(*b*) ensure the sufficiency, pressure and wholesomeness of water supplies;

(*c*) in so far as it is able to do so, augment water resources and for such purpose to treat salt water by any process for removing salt or other impurities, or make use of the most appropriate technology for supplementing the natural water resources;

(*d*) to the extent that it is so authorised to do, survey any land, to inspect any well and to cause the sinking of bores or other works for the purpose of ascertaining the nature of the subsoil or the presence, quality or quantity of underground water in it and to cause the sinking of shafts and the driving of subterranean galleries.

(2) The Corporation may provide technical assistance to other persons desirous of sinking wells, driving galleries, constructing conducts or otherwise to improve their water supply.

Provision of sewage services, etc.
Amended by: XXV. 2000.36.

19. Subject to the provisions of this Act and of any other law, the Corporation may, in so far as it is able so to do -

(*a*) provide a public sewer system to be used for the drainage of domestic sewage;

(*b*) take such steps from time to time as may be necessary for ascertaining the cleanliness, safety and efficiency of such services;

(*c*) take all actions as it may from time to time consider necessary or expedient for augmenting and improving the means of disposal and the ways of treating the contents of such services;

(*d*) take such steps from time to time as may be necessary for ensuring the safe discharge, reception, treatment and disposal of trade effluent;

(*e*) take all actions as it may from time to time consider necessary to encourage the re-use of treated effluent;

(*f*) to carry out tests and to make regulations relating to waste and sewage connections for the purpose of ensuring the proper and fit disposal of waste water and sewage;

(*g*) take all actions necessary or expedient to re-use stormwater run-off as appropriate.

Default powers.

20. (1) Where written complaint is made to the Minister that the Corporation has failed -

(*a*) to give an adequate supply of water, either as respects quantity or quality, or to give any supply which it has been lawfully required to give; or

(*b*) to take such steps as are reasonably practicable for the purpose of remedying any such failure; or

(*c*) to do anything which it is required to do by or under this Act;

and where the Minister is of the opinion that an investigation should be made as to whether the Corporation has failed in any of these matters, he may cause an inquiry to be held into the matter.

(2) If after such an inquiry has been held it appears to the Minister that there has been such a failure, as is referred to in subarticle (1), he may make an order declaring the Corporation to be in default and directing it to remedy the default and to discharge such of its functions in such manner and within such time or times as may be specified in the order.

Limits of Liability.

21. (1) The Corporation shall not be liable for any damage to any person or any property relating to installation of the supply of water which may be due to unavoidable accident, fair wear and tear or to unauthorised connection of water fittings or to defects in any installation not provided by the Corporation.

(2) Without prejudice to the provisions of article 18(2), the Corporation is not liable, in the absence of negligence and subject

to the provisions of this Act, for any nuisance or any damage attributable to the performance of a duty imposed by this Act.

(3) The Corporation is not liable in particular for any nuisance or damage caused by flooding arising from the action of naturally occurring storms, groundwater or the action of the sea.

The Corporation and Enemalta.

22. (*Deleted by Act XXXIV. 2014.28*.)

PART III

Financial provisions

Power to borrow or raise capital. *Amended by: XXVII. 2007.36; L.N. 425 of 2007.*

23. (1) The Corporation may, with the approval in writing of the Minister given after consultation with the Minister responsible for finance, borrow, secure or raise money by debentures, debenture stock, or other security, for any one or more of the following purposes of the Corporation:

(*a*) the provision of working capital;

(*b*) the carrying out of the functions of the Corporation under this Act;

(*c*) the provision of capital for the expansion of and addition to the fixed assets of the Corporation;

(*d*) the redemption of any debentures or debenture stock or other security that the Corporation is required or entitled to redeem;

(*e*) any other expenditure properly chargeable to capital account.

(2) The Corporation may, from time to time, borrow by way of overdraft or otherwise, for periods not exceeding twelve months, such sums as the Board may require for carrying out its functions under this Act:

Provided that for any amount in excess of two million and three hundred and twenty-nine thousand and three hundred and seventy-three euro and thirty-three cents (2,329,373.33), there shall be required the approval in writing of the Minister.

Borrowing by advances from the Government.

24. (1) Whenever it may be necessary for the Corporation to borrow by way of advances from the Government any sums which may be required for carrying out any of the functions of the Corporation under this Act, the Minister responsible for finance after consultation with the Minister may, by warrant under his hand and without further appropriation other than this Act, authorise the Accountant General to make advances to the Corporation either out of the proceeds of any loan contracted or raised for the purpose or out of the Consolidated Fund; and such advances shall be made on such terms and conditions as the Minister responsible for finance may direct.

(2) The Minister responsible for finance may, for any of the requirements of the Corporation of a capital nature, contract or raise loans, or incur liabilities, for such periods and on such terms

and conditions as he may deem appropriate; and any sum due in respect of or in connection with any such loan or liability shall be a charge on the Consolidated Fund.

(3) Notice of any loans, liabilities or advances made or incurred under the foregoing provisions of this article shall be given to the House of Representatives as soon as practicable.

(4) Pending the raising of any such loan as is mentioned in subarticle (2) or for the purposes of providing the Corporation with working capital the Minister responsible for finance may, by warrant under his hand and without further appropriation other than this Act, authorise the Accountant General to make advances out of the Treasury Clearance Fund to the Corporation under such terms as shall be specified by the said Minister upon the making thereof.

(5) Sums received by the Accountant General from the Corporation in respect of advances made to the Corporation under subarticle (4) shall be paid, as respects amounts received by way of repayment into the Treasury Clearance Fund, and, as respects amounts received by way of interest, into the Consolidated Fund.

Application of revenue.

25. (1) The revenue of the Corporation for any financial year shall be applied in defraying the following charges:

(*a*) the remuneration, fees and allowances of the members of the Board;

(*b*) the salaries or wages, fees, remuneration, pensions, superannuation allowances, gratuities and other allowances of the officers, employees, agents and technical or other advisers of the Corporation, and payments for the maintenance of any pension scheme or other scheme established under the provisions of this Act, and any payment to the Government on account of pensions or gratuities under article 39 or 40;

(*c*) the establishment and working expenses and expenditure on, or the provision for, the maintenance of any of the installations of the Corporation, and the discharge of the functions of the Corporation properly chargeable to revenue account;

(*d*) interest on any debentures, debenture stock or other security issued, interest on any overdraft and on any loan raised, or advances received by the Corporation;

(*e*) sums required to be transferred to a sinking fund or otherwise set aside for the purpose of making provision for the redemption of debentures or debenture stock or other security or for the repayment of other borrowed money;

(*f*) such sums as may be deemed appropriate to be set aside in respect of depreciation on the property of the Corporation having regard to the amount set aside out of revenue under paragraph (*e*);

(*g*) the payment of any other expenditure approved by the

Board and properly chargeable to revenue account.

(2) Subject to such directions as the Minister, after consultation with the Minister responsible for finance, may from time to time give, any excess of revenue over expenditure shall be applied by the Corporation to the creation of reserve funds to finance future expansion of the Corporation; and without prejudice to the generality of the powers given to the Minister by this subarticle, any direction given by the Minister as aforesaid, any part of such excess may be transferred to the Government, or may be applied in such manner as may be specified in the direction.

Investment of funds.

26. Any funds of the Corporation not immediately required to be expended in the meeting of any obligations or the carrying out of any functions of the Corporation may be invested from time to time in such manner as may be approved by the Minister responsible for finance.

Prices, fees and other charges by the Corporation. *Substituted by: XXV. 2000.36; XXVII. 2007.37. Amended by: XXV. 2015.41.*

27. (1) The prices to be charged by the Corporation for any service or facility provided by it under this Act shall be in accordance with such tariffs as may, from time to time, be prescribed by the Corporation following the written approval by the Regulator for Energy and Water Resources.

(2) Nothing in subarticle (1) or in any such tariff as aforesaid shall prevent the Corporation from charging other prices by special agreement, provided that these are lower than those established by tariff.

(3) In prescribing tariffs, the Corporation shall ensure that the prices charged are adequate to provide sufficient revenue to the Corporation in any financial year -

(*a*) to cover operating expenses, including taxes, if any, and to make provision for adequate maintenance, for depreciation, for interest payments on borrowings and for other interest payments;

(*b*) to meet periodic repayments on long term indebtedness to the extent that any such repayment exceed the provisions for depreciation;

(*c*) to create reserves to finance a reasonable part of the cost of future expansion, being expenses, repayments and reserves incurred or made by the Corporation in the exercise of its functions; and

(*d*) to provide a reasonable return on investment and expenditure.

Estimates of the Corporation. *Amended by: XXVII. 2007.38; XXXIV. 2014.29.*

28. (1) The Corporation shall in every financial year cause to be prepared, and shall not later than four weeks before the end of each such year adopt, estimates of the incomes and expenditure of the Water Services Corporation for the next following financial year.

(2) The estimates shall be made out in such form and shall contain such information and such comparisons with previous years as the Minister shall direct.

(3) A copy of the estimates of the Corporation shall upon their adoption by the Board be sent forthwith by the Board to the appropriate Minister together with a report of the activities of the Corporation during the previous financial year.

(4) The Minister shall within eight weeks from receipt of a copy of the estimates, or if at any time during the period the House of Representatives is not in session, within eighth weeks from the beginning of the next following session, cause such estimates to be laid on the Table of the House of Representatives together with a motion that the House approve the said estimates. Not more than two sittings shall be allotted for the debate in the House on such a motion and both the motion and the approval of the estimates by the House may be with or without amendments to the estimates.

(5) No expenditure shall be made or incurred by the Corporation that has not been approved by the House of Representatives:

Provided that -

(*a*) until the expiration of six months from the beginning of a financial year or until the approval of the estimates for that year by the House, whichever is the earlier date, the Corporation may make or incur expenditure for carrying on its functions under this Act not exceeding in the aggregate one-half of the amount approved for the preceding financial year;

(*b*) expenditure approved in respect of a head or subhead of the estimates may, with the approval of the Minister, be incurred in respect of another head or subhead of the estimates;

(*c*) if in respect of any financial year it is found that the amount approved by the House is not sufficient or a need has arisen for expenditure for a purpose not provided for in the estimates, the Board may adopt supplementary estimates for approval by the House, and pending such approval may in special circumstances and with the approval of the Minister, incur the relative expenditure; moreover in such case the provisions of this Act applicable to the estimates shall as soon as practicable apply to the supplementary estimates:

Provided further that in respect of the first financial year of the Corporation this article shall apply as if it required the Board to adopt estimates for that year not later than twelve weeks from the appointed day*, and as if, until the approval of the estimates for that year by the House, and subject to the total expenditure for that year not exceeding the amount approved by the House, no limits were placed on the power of the Corporation to make or incur expenditure.

(6) All estimates and supplementary estimates approved by the

*20th January, 1992 - *see* Legal Notice 7 of 1992.

House shall, as soon as practicable, be published in the Government Gazette.

(7) This article shall apply to the first and subsequent financial years.

Accounts and audit.
Amended by: XVI. 1997.8.
Substituted by: XXVII. 2007.39.

29. (1) The Corporation shall cause to be kept proper accounts and other records in respect of its operations.

(2) The accounts of the Corporation shall be audited by an auditor or auditors to be appointed by it and approved by the Minister:

Provided that the Minister may require the books and accounts of the Corporation to be audited or examined by the Auditor General who shall for this purpose have power to carry out such physical checking and other verifications as he may deem necessary.

(3) A copy of the audited accounts of the Corporation shall, upon their adoption, be sent forthwith by the Board to the Minister together with a report by the Board detailing the activities of the Corporation in that year.

(4) The Minister shall, at the earliest opportunity and not later than the first sitting of the House after four weeks from the receipt of the copy of the audit and report of the Corporation referred to in subarticle (3), cause such audit and report to be laid before the House of Representatives, together with the motions laid before the House under article 28.

Cash deposits and payments.
Amended by: XXVII. 2007.40.

30. (1) All moneys of the Corporation accruing from any operations under this Act shall be paid into a bank or banks appointed by resolution of the Board. Such money shall as far as practicable, be paid into that bank from day to day, except for such sum as the Board may authorise to be retained to meet petty disbursements and immediate payments.

(2) All payments out of the funds of the Corporation, except petty disbursements not exceeding a sum to be fixed by the Board, shall be made by such officer or officers of the Corporation as the Board shall appoint or designate for that purpose.

(3) Cheques against or withdrawals from any bank account of the Corporation shall be signed by such officer of the Corporation as may be designated by the Board for that purpose and shall be countersigned by the Chairman or such other member of the Board or other officer of the Corporation as may have been authorised by the Board for that purpose.

(4) The Corporation shall also provide for all matters necessary for the proper keeping and control of its accounts and books and for control of its finances.

Annual Report.

31. The Board shall, not later than six weeks before the end of each financial year, make and transmit to the Minister a report dealing generally with the activities of the Corporation during that year and containing such information relating to the proceedings

and policy of the Corporation as the Minister may from time to time require. Such report shall be transmitted to the Minister and laid before the House as provided in article 28.

PART IV

Transfer to the Corporation of Government Undertakings

Transfer to the Corporation of public undertakings.

32. (1) With effect from the appointed day* all public undertakings shall, by virtue of this Act, and without further assurance, be transferred to, and shall vest in, the Corporation under the same title by which they were held by the Government immediately before that day.

(2) Such transfer shall extend to the whole of such public undertakings and shall include all plant, lands, works and other property movable or immovable, assets, powers, rights, privileges and causes of action held or enjoyed in connection therewith or appertaining thereto.

Construction of existing laws, contracts, etc.

33. Subject to the provisions of this Act, all laws, rules, regulations, orders, judgements, documents, warrants and working arrangements, subsisting immediately before the appointed day†, affecting any of the transferred undertakings shall have full force and effect against or in favour of the Corporation and shall be enforceable as fully and effectually as if, instead of the Government, the Corporation had been named therein or had been a party thereto, as the case may be.

Transitory provisions.

34. (1) Where anything has been commenced by or under the authority of the Government prior to the appointed day* and such thing is in relation to any of the transferred undertakings or any right or liability transferred by or under this Act, such thing may be carried on and completed by or under the authority of the Corporation.

(2) Where at the appointed day* any legal proceeding is pending to which the Government is a party or is entitled to be a party and such proceeding has reference to any of the transferred undertakings or any right or liability transferred by or under this Act, the Corporation shall be substituted in such proceeding for the Government or shall be entitled to be so substituted.

(3) The Minister may by order make such incidental, consequential and supplemental provisions as may be necessary or expedient for the purpose of securing and giving full effect to the transfer of any undertaking or any, right or liability to the Corporation by or under this Act and may make such orders as may be necessary to make any powers and duties exercised by the Government, in relation to any of the transferred undertakings, exercisable by and on behalf of the Corporation.

*20th January, 1992 - *see* Legal Notice 7 of 1992.
†20th January, 1992 - *see* Legal Notice 7 of 1992.

35. (*deleted by XXVII. 2007.41*.).

Creation of permanent debenture stock in favour of the Government.

PART V

Officers and Other Employees of the Corporation

Appointment and functions of Chief Executive and of other officers and employees of the Corporation.

36. The Corporation shall appoint and employ at such remuneration and upon such terms and conditions as it may, in accordance with article 13, determine, such officers and other employees as may from time to time be necessary for the due and efficient discharge of its functions:

Provided that the Chief Executive shall be selected and appointed with the approval of the Minister.

Superannuation schemes, etc., for officers and employees of the Corporation.

37. (1) Subject to the approval of the Minister, and so far as consistent with the provisions of this Part relating to public officers who accept permanent employment with the Corporation and to other Government employees transferred to the service of the Corporation, the Corporation may establish a scheme or schemes for the payment of superannuation allowances, pensions or gratuities to officers and employees of the Corporation who retire from its service or otherwise cease to hold office with it by reason of age, or of infirmity of body or mind, or of abolition of office.

(2) No assurance on the life of any contributor under any such scheme, and no moneys or other benefits payable under any such assurance, and no pension, gratuity or other allowance granted under any such scheme to any person who has been employed by the Corporation, shall be assignable or transferable, or liable to be attached or seized for or in respect of any debt or claim whatsoever, other than a debt due to the Corporation.

Detailing of public officers for duty with the Corporation.

38. (1) Such public officers, employed in the Water Works Department or such other departments of Government whose functions are from time to time transferred to the Corporation, immediately before the coming into force of this article in relation to such department, as the Prime Minister shall direct, shall as from the date specified in the direction, be detailed for duty with the Corporation in such capacity as may be specified in the Prime Minister's direction.

(2) Any direction given by the Prime Minister before the date of the coming into force of this article for the purpose of detailing any such officers as aforesaid for duty with the Corporation as aforesaid shall be of the same effect and validity as it would have had, had such direction been given after such date.

(3) The Prime Minister may also, at the request of the Corporation, from time to time direct that any public officer shall be detailed for duty with the Corporation in such capacity and with effect from such date as may be specified in the Prime Minister's direction.

(4) The period during which a direction given under the preceding provisions of this article shall apply to any officer specified therein, shall, unless the officer dies, or retires from the

public service, or otherwise ceases to hold office at an earlier date, or unless a different period is specified in such direction, end on the happening of any of the following events, that is to say:

(*a*) the acceptance by such officer of an offer of transfer to the service of, and permanent employment with the Corporation made in accordance with the provisions of article 40; or

(*b*) the revocation of such direction by the Prime Minister, in relation to such officer.

(5) Where a direction given by the Prime Minister under any of the subarticles (1), (2) or (3) hereof is revoked by the Prime Minister in relation to any officer, the Prime Minister may, by further direction, detail such officer for duty with the Corporation in such capacity and with effect from such date as may be specified in the Prime Minister's direction, and the provisions of subarticle (4) shall thereupon apply to the period of duration of any such further direction in relation to such officer.

Status of public officers detailed for duty with the Corporation.

39. (1) Where any officer is detailed for duty with the Corporation by any direction given under the provisions of article 38, such officer shall, during the time in which such direction has effect in relation to him be under the administrative authority and control of the Corporation but he shall for all other intents and purposes remain and be considered and treated as a public officer.

(2) Without prejudice to the generality of the foregoing, an officer detailed for duty as aforesaid -

(*a*) shall not during the time in respect of which he is so detailed:

(i) be precluded from applying for a transfer to a department of the Government in accordance with the terms and conditions of service attached to the appointment under the Government held by him at a date on which he is so detailed for duty; or

(ii) be so employed that his remuneration and conditions of service are less favourable than those which are attached to the appointment under the Government held by him at the date aforesaid or which would have become attached to such appointment, during the said period, had such officer not been detailed for duty with the Corporation;

(*b*) shall be entitled to have his service with the Corporation considered as service with the Government for the purposes of any pension, gratuity or benefit under the Pensions Ordinance and the Widows' and Orphans' Pensions Act and of any other right or privilege to which he would be entitled, and liable to any liability to which he would be liable, but for the fact of his being detailed for duty with the Corporation.

Cap. 93.
Cap. 58.

(3) Where an application is made as provided in subarticle (2)(*a*)(i), the same consideration shall be given thereto as if the applicant had not been detailed for service with the Corporation.

(4) The Corporation shall pay to the Government such contributions as may from time to time be determined by the Minister responsible for finance in respect of the cost of pensions and gratuities earned by an officer detailed for duty with the Corporation aforesaid during the period in which he is so detailed.

Offer of permanent employment with the Corporation to public officers detailed for duty with the Corporation.

40. (1) The Corporation may, with the approval of the Prime Minister and upon such terms and conditions in accordance with article 13, offer to any officer detailed for duty with the Corporation under any of the provisions of article 38 permanent employment with the Corporation at a remuneration and on terms and conditions not less favourable than those enjoyed by such officer at the date of such offer.

(2) The terms and conditions comprised in any offer made as aforesaid shall not be deemed to be less favourable merely because they are not in all respects identical with or superior to those enjoyed by the officer concerned at the date of such offer, if such terms and conditions, taken as a whole, in the opinion of the Prime Minister, offer substantially equivalent or greater benefits.

(3) Every officer who accepts permanent employment with the Corporation offered to him under the provisions of subarticle (1) shall, for all purposes other than those of the Pensions Ordinance and of the Widows' and Orphans' Pensions Act, be deemed to have ceased to be in service with the Government and to have entered into service with the Corporation on the date of his acceptance, and for the purposes of the said Ordinance and of the said Act, so far as applicable to him, service with the Corporation shall be deemed to be service with the Government within the meanings thereof respectively.

Cap.93.
Cap.58.

(4) Every such officer as aforesaid who, immediately before accepting permanent employment with the Corporation was a contributor under the Widows' and Orphans' Pensions Act shall continue to benefit thereunder to all intents as if his service with the Corporation were service with the Government.

Cap.58.

(5) The Corporation shall pay to the Government such contributions as may from time to time be determined by the Minister responsible for finance in respect of the cost of pensions and gratuities earned by an officer who has accepted permanent employment with the Corporation as aforesaid during the period commencing on the date of such officer's acceptance.

PART VI

Contracts and Power to Acquire or Dispose of Property

Contracts of supply or works. *Amended by: L.N. 425 of 2007. Substituted by: XXVII. 2007.42.* S.L. 174.06

41. The Corporation shall only enter into contracts for the procurement of goods, services or materials, other than petroleum, or for the execution of works, in accordance with the Public Procurement of Entities operating in the Water, Energy, Transport and Postal Services Sectors Regulations:

Provided that the Minister may further limit the Corporation's procurement procedures.

Power to acquire and dispose of property. *Amended by: XXVII. 2007.43.*

42. (1) Subject to the provisions of the last preceding article the Corporation may for the purpose of the due and efficient discharge of its functions under this Act -

(*a*) purchase or otherwise acquire and hold any movable property and dispose of any such property; and

(*b*) purchase or otherwise acquire and hold any lands or other immovable property or interest therein and take any such property on lease or on any other title whatsoever.

(2) The Corporation may, subject to the requirement of any other law and with the written consent of the Minister, dispose, hypotecate, or alienate or encumber under any title and subject to any conditions whatsoever, any movable or immovable property, right, undertaking, installation or other asset or interest vested in the Corporation by this Act or as otherwise required by the Corporation:

Provided that for the purpose of any alienation, disposal or grant of any immovable property or any interest therein, the Corporation shall observe the provisions stipulated in any one of paragraphs (*a*) to (*f*) of article 3(1) of the Disposal of Government Land Act, in respect of that immovable property or any interest therein.

Cap. 268.

PART VII

Miscellaneous Provisions

Licences for the supply, sale, etc., of water, water pumps and other apparatus related to the supply of water.

43. (*deleted by XXV.2000.36*).

Grant of licences by the Corporation and other arrangements.

44. (*deleted by XXV.2000.36*).

Power to make regulations.

45. (*deleted by XXV.2000.36*).

Publication of regulations in the Government Gazette.

46. Any order made under article 22 or under article 34(3) shall be published in the Government Gazette.

Saving as to domestic wells.

47. (*deleted by XXV.2000.36*).

Exemption from the provisions of this Act.

48. (*deleted by XXV.2000.36*).

Power of entry for ascertaining conditions of installations etc. *Substituted by: XXV. 2000.36.*

49. Any officer of the Corporation duly authorised by the Board may, at all reasonable times, enter into any premises -

(*a*) to inspect, alter or repair any water fittings or service, apparatus, installation, instrument, plant or accessories belonging to the Corporation, whenever any service by the Corporation is no longer required or where the Corporation is authorised by or under this Act or any other law;

(*b*) to inspect, alter or repair any part of the sewers, waste water or stormwater run-off systems owned by the Corporation:

Provided that the Corporation shall repair all damage caused by any such entry, alteration or repair.

Offences relating to precautions in the execution of works. *Amended by: XXV. 2000.36.*

50. (1) The execution of all work in connection with the services given by the Corporation shall be carried out in such a manner as may be prescribed under this Act or as may be required by or under the provision of any other law.

(2) Any person who contravenes or fails to comply with the provisions of this article shall be guilty of an offence under this Act.

Offences relating to installations, etc., supplied.

51. (1) No person shall use any water or any installation, apparatus, fittings, instrument or their accessories, supplied by the Corporation, or any water supplied for sale or disposal by or on behalf of the Corporation, whether directly or indirectly, for purposes other than that for which it is supplied; and any declaration or clear indication by the Corporation as to the purpose for which any thing as aforesaid has been supplied, shall be conclusive evidence of such purpose.

(2) Any person who contravenes the provision of this article shall be guilty of an offence against this Act.

Other offences. *Amended by: XXV. 2000.36.*

52. Any person who -

(*a*) obstructs or impedes any member of the Board or any officer, agent or servant of the Corporation in the exercise of his duties under this Act or under any regulations made under this Act; or

(*b*) contravenes or fails to comply with any of the provisions of this Act or of any such regulations as aforesaid or any order lawfully given under the provisions of this Act or of such regulations,

shall be guilty of an offence against this Act.

Savings.
Cap. 22.
Cap. 105.
Cap. 114.

G.N.133 of 1948.

53.[*] (1) All regulations, rules or orders and all licences made under, or kept in force under the Water Supply Ordinance[†], the Irrigation Ordinance[†] and the Underground Water Ordinance[†] immediately before their repeal shall, with the necessary modifications, adaptations and limitations, and all regulations, rules or orders made under or kept in force by the Water Supply Regulations, 1948, and in so far as these are not inconsistent with the provisions of this Act, continue in force and have effect as if they had been made or granted under this Act and may be revoked or amended accordingly.

(2) Any licence, permit or other authority granted under any enactment, or any provision thereof, repealed by this Act, and still in force immediately before such repeal, shall continue in force thereafter as if it were a licence issued under this Act, or, as the case may require, and any such licence, permit or authority as aforesaid shall be treated and dealt with accordingly.

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*This article originally consisted of five subarticles; the original subarticles (1), (2) and (4) have been omitted under the Statute Law Revision Act, 1980.
†Repealed by this Act.