WATER SERVICES CORPORATION ACT, 1991

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SCHEDULE.

I assent.

(L.S.)

CENSU TABONE
President
22nd November, 1991

ACT No. XXIII of 1991

AN 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.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

Preliminary

Short title and commencement.

1. (1) This Act may be cited as the Water Services Corporation Act, 1991.

(2) This Act shall come into force on such date as the Minister responsible for water may, by notice in the Government Gazette appoint, and different dates may be so appointed for different provisions and for different purposes of this Act.

Interpretation.

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 section 32 of this Act comes into force with respect to such public undertakings as may be transferred by virtue of that section;

"Board" means the Board of the Corporation established by section 5 of this Act;

"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 subsection (5) of section 5 of this Act;

"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 life of the person or persons residing in the tenement;

"financial year" means any period of twelve months ending on the thirtieth of September of any year: provided that the first financial year of the Corporation shall commence on the date of the coming into force of this Act and shall end on the thirtieth day of September of the next following year;

"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 section 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 section 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 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.

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

(2) Subject to the provisions of this Act the Corporation shall have the sole and exclusive authority:—

(a) to acquire, produce, keep, distribute, sell, export or otherwise dispose of water (other than bottled table 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.

(3) Subject to the provisions of this Act, 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 subsection 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 consider and advise any minister on any matter relating to the formulation of an overall national policy for water and on all matters 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 and to make regulations 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 Director of Works;

(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) make regulations and orders in accordance with the provisions of this Act;

(f) exercise any other power vested in it by this Act or otherwise.

(5) In carrying out any of its functions under this Act, or any other thing or activity, the Corporation shall conform its policies and activities with the aims and objectives of national economic planning from time to time in force.

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.

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. One of the members shall be elected by secret ballot by and from amongst the employees of the Corporation who are eligible to vote in accordance with regulations made under section 6 of this Act; the other members of the Board, hereinafter referred to as the appointed members, shall be appointed by the Minister.

(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 organisation and the administrative control of its officers and other employees shall be the responsibility of the Chief Executive 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 shall be notified of and shall have the right 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.

Regulations regarding elections.

6. The Minister may make regulations for giving effect to the provisions of this Act regarding the election of the member of the Board to be elected by its employees and in particular but without prejudice to the generality of the provision of the foregoing, any regulation may:—

(a) provide for holding the elections, and for the conduct and supervision thereof;

(b) prescribe the category of workers who may or may not vote or stand for election to the Board;

(c) determine the period for which a worker shall be so elected;

(d) prescribe the circumstances wherein a member shall vacate his office;

(e) determine the time for holding an election after a vacancy;

(f) prescribe anything in respect of any other matter relating to such election as the Minister may deem necessary or expedient.

Duration of appointment to the Board of Directors.

7. Subject to the provisions of sections 8 and 10 of this Act, 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 eligibile for reappointment or re-election as the case may be:

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.

8. A person shall be disqualified for appointment or election to, 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.

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

(2) The appointment or election 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 section 11 of this Act, 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 section 9 of this Act.

Staff appointments.

13. Subject to the provisions of the Constitution and of any other enactment applicable thereto, the appointment of officials and other employees of the Corporation shall be made by the Board. The terms and conditions of employment shall be comparable with those of employees in the service of the Government and shall be established by the Board with the concurrence of the Minister.

Nothing in this section shall be construed as precluding the establishment, by the Corporation with the approval of the Minister given after consultation with the Minister responsible for finance, of schemes of incentives related to productivity or performance.

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 subsection (3) of section 3 of this Act.

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.

17. The Corporation shall be exempt from any liability for the payment of customs duty and stamp duty under any law for the time being in force.

Duties of the Corporation in relation to **the supply of** water.

18. (1) (a) Subject to the provisions of this Act and to any directions given thereunder, the Corporation shall, in so far as it is able to do so:—

(i) supply water to such persons, in such manner and under such conditions as, in the opinion of the Board, are calculated to satisfy reasonable demands for water;

(ii) take such steps from time to time as may be necessary for ascertaining the sufficiency, pressure and wholesomeness of water supplies;

(iii) take all such actions as it may from time to time consider necessary or expedient for the purpose of conserving, redistributing or otherwise augmenting water resources and of securing the proper use of water resources.

(b) The reference in this subsection to action for the purpose of augmenting water resources includes a reference to action for the purpose of treating salt water by any process for removing salt or other impurities, or making use of the most appropriate technology for supplementing the natural water resources.

(2) With the authority of the appropriate Minister, the Corporation shall have the right, in order to maintain or to improve the water supply of these islands, to enter upon and 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 in and the driving of subterranean galleries through the lands of any person by such means as may seem to it best suited for the purpose. The Corporation shall in the exercise of the rights under this subsection make good any damages it may cause to third parties.

(3) The Corporation must, subject to the provisions of this Act and with the approval of the Minister, provide technical assistance to owners of tenements desirous of sinking wells, driving galleries, constructing conduits or otherwise improving the water supply in their tenements.

(4) (a) The Corporation may reduce as it thinks fit the quantity of water supplied to any consumer, if, by reason of any unforeseen circumstances beyond the control of the Board, it appears that the supply of water is insufficient to enable the full quantity to be conveniently supplied.

(b) Where:—

(i) the supply of water to specified premises is insufficient or unwholesome to the extent of causing a danger to health, and

(ii) a supply of wholesome water by the Corporation for domestic purposes is required for these premises and it is not practicable to provide such a supply in pipes, but is practicable to provide such a supply otherwise, at a reasonable cost,

it shall be the duty of the Corporation to provide a supply of wholesome water otherwise than in pipes for domestic purposes to those premises.

(c) Where the quantity of water supplied has been reduced as aforesaid in this section, no liability shall be incurred by the Corporation in respect of any loss or damage caused by such reduction.

19. Subject to the provisions of this Act and to any directions given thereunder, the Corporation shall in so far as it is able so to do:— Duties of the Corporation in relation to the provision of sewage services.

(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 public sewers;

(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 public sewers;

(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.

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

(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 subsection (1) of this section, 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.

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. Limits of Liability.

(2) Without prejudice to the provisions of subsection (2) of section 18, 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. (1) The provisions of the Schedule of this Act shall have effect with respect to the operation by the Corporation of meter-reading, account keeping and bill collecting service common to, and in the joint interest of, the Corporation and Enemalta and to the exercise and performance by the Corporation on behalf of Enemalta of such functions as are or as may from time to time be lawfully vested in relation to the acts and matters specified in paragraph 1 of the said Schedule.

(2) If, after consultation with the Corporation and with Enemalta, the Minister is satisfied that it is no longer necessary or expedient for such joint service to be maintained as aforesaid, he may by order revoke the Schedule to this Act, and any agreement entered into between the Corporation and Enemalta in pursuance of paragraph 6 of that Schedule or kept in force under this Act as if it had been so entered into (hereinafter in this section referred to as "the agreement") shall thereupon cease to have effect.

(3) The Minister may from time to time, with the concurrence of the Corporation and of Enemalta, by order vary the provisions of the Schedule to this Act to such extent and in such manner as the Minister may determine; and as from such date on which any such order comes into force the provisions of the agreement shall have effect subject to such modifications as may be necessary to prevent any inconsistency between the provisions of the agreement and the provisions of the said Schedule as varied by such order.

(4) Any order made under this section may contain such transitorial, supplementary and incidental provisions as the Minister, after consultation with, or with the concurrence of the Corporation and Enemalta, may deem to be necessary or expedient for the purpose of the order.

PART III

Financial provisions

Power to borrow or raise capital.

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 hundred thousand Maltese liri, 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 section shall be given to the House of Representatives as soon as practicable.

(4) Pending the raising of any such loan as is mentioned in subsection (2) of this section 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 subsection (4) of this section 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 section 39 or 40 of this Act;

(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) of this subsection;

(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 subsection, 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.

27. (1) The fees to be charged by the Corporation for any service or facility provided or for rights made available by it shall be in accordance with such tariffs and schemes as may, from time to time, be prescribed.

(2) Nothing in subsection (1) of this section or in any such tariffs as aforesaid shall prevent the Corporation from charging other fees by special agreement.

(3) In prescribing tariffs and entering into agreements relating to fees to be paid for water, facilities provided or rights made available by it and all related services, the Corporation shall ensure that the fees charged are adequate to provide sufficient revenue in any financial year:—

(a) to cover operating expenses 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 repayments exceed the provision for depreciation; and

(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 any such tariffs and agreements shall not give undue preference as between consumers in similar circumstances or discriminating between persons in similar circumstances as to the supply or service provided and any other circumstance which could justify a preferential or discriminatory treatment.

(4) The tariffs to be charged by the Corporation shall be in accordance with such rates as the Corporation, with the approval of the Minister, may from time to time determine.

Estimates of the Corporation.

28. (1) The Corporation shall in every financial year cause to be prepared, and shall not later than six 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, 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 estimates and report of the Corporation referred to in subsection (3) of this section, cause such estimates and report to be laid before 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 section 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 House shall, as soon as practicable, be published in the Government Gazette.

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

Accounts and audit.

29. (1) The Corporation shall cause to be kept proper accounts and other records in respect of its operations, and shall cause to be prepared an interim statement of account for the second period of six months in respect of each financial year, together with a statement of account covering the whole financial year and giving a true and fair view of its state of affairs.

(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 Director of Audit who shall for this purpose have power to carry out such physical checking and other verifications as he may deem necessary.

(3) The interim statement of account in respect of the first period of six months of each financial year, duly audited, shall be adopted by the Board not later than six weeks after the end of such period and shall be transmitted forthwith to the Minister together with a copy of any report made by the auditor or auditors on that statement or on the account of the Corporation.

(4) The statement of account in respect of the second period of six months of each financial year together with the statement of account in respect of the whole financial year, both duly audited, shall be adopted by the Board not later than ten weeks after the end of the financial year and shall be transmitted forthwith to the Minister together with a copy of any report made by the auditor or auditors on those statements or on the accounts of the Corporation.

(5) Before the end of each financial year, the Minister shall cause to be laid on the Table of the House of Representatives,together with the motions laid before the House under section 28 of this Act, a copy of the following:—

(a) the interim statement of account and any report in respect of the first six months of the current financial year;

(b) the statement of account and any report in respect of the second six months of the immediately preceding financial year; and

(c) the statement of account and any report in respect of the immediately preceding full financial year.

Cash deposits and payments.

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 and approved by the Minister. 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 section 28 of this Act.

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.

Creation of permanent debenture stock in favour of the Government.

35. (1) As soon as practicable after the commencement of this Act, the Board shall create and issue in favour of the Government, in respect of the net value of the assets transferred to the Board by the Government under the provisions of this Act, permanent debenture stock bearing interest at six per centum a year payable at such times and under such conditions as shall be agreed to between the Government and the Board.

(2) The said net value shall be agreed upon between the Government and the Board.

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 section 13 of this Act, 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 section 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 section 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 section 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 section 40 of this Act; 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 subsections (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 subsection (4) of this section 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 section 38 of this Act, 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.

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(3) Where an application is made as provided in subparagraph (i) of paragraph (a) of subsection (2) of this section 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 tne Prime Minister and upon such terms and conditions in accordance with section 13 of this Act, offer to any officer detailed for duty with the Corporation under any of the provisions of section 38 of this Act 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 subsection (1) of this section 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.

(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.

(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.

41. Except with the approval of the Minister granted for special reasons, the Corporation shall not enter into any contract for the supply of goods or materials or for the execution of works which is estimated by the Board to exceed three thousand liri in value or such other sum as the Minister may with the concurrence of the Minister responsible for finance by notice determine, unless after notice of the intention of the Corporation to enter into the contract has been published and competitive tenders have been issued.

Power to acquire and dispose of property.

42. (1) Subject to the provisions of the last preceding section 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, with the written authority of the Prime Minister, alienate or hypothecate any lands or other immovable property or interest therein vested in the Corporation by this Act or otherwise acquired by the Corporation and may also, with the consent of the Minister, grant a lease of such lands or property for any period.

PART VII

Miscellaneous Provisions

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

43. (1) (a) Subject to the provisions of this Act, no person shall in Malta, except for or on behalf of the Corporation, or by agreement or in pursuance of arrangements with the Corporation or under a licence from the Corporation, or in accordance with regulations made under this Act —

(i) pump water, or do any work or install any apparatus or other thing intended for the manufacture, desalination, polishing, treatment, including provision, storage and distribution of water; provided that nothing contained in this Act shall prevent the construction of cisterns for the purpose of conserving surface water;

(ii) acquire, manufacture, keep, store, distribute, sell, hawk, export or otherwise dispose of water for the purpose of sale or water supply;

(iii) make, buy or otherwise acquire, sell or otherwise dispose of or have in his possession or under his control any water pump or any apparatus related to the production, supply or distribution of water; and no person shall sell or in any other way dispose of any such apparatus to any person who has not obtained a licence for buying or otherwise acquiring such apparatus;

(iv) sink any well, or bore any hole, or dig any trench in any irrigation area without the permission of the Corporation, for the purpose of obtaining underground water, or carry out any work whatever which reduces or interferes with the Corporation's supply of water;

(v) consume or dispose of water supplied to him by the Corporation for purposes other than that for which it is supplied;

(vi) dispose of sewage, waste water or stormwater run-off except in the manner prescribed by the Corporation;

(vii) in any other manner encroach upon the exclusive rights vested in the Corporation by section 3 of this Act.

(b) The provisions of subparagraphs (i) to (iii) of paragraph (a) do not apply to bottled table water.

(2) Any person who, without lawful excuse, contravenes or fails to comply with any provision of this section shall be guilty of an offence against this Act.

Grant of licences by the Corporation and other arrangements.

44. (1) (a) The Corporation may, in its discretion and under such terms and conditions as it may deem appropriate, grant a licence in writing to any person —

(i) for the manufacture, provision and storage and supply of water either for the sole use of such person or that of such other persons, whether specified by name or by reference to any area or locality, as may be permitted by the Corporation;

(ii) for the acquisition, manufacture, provision, storage, distribution, sale, exportation or other disposal of water or for any one or more of any such activities, including, but without prejudice to the generality of the aforesaid, the construction or erection of cisterns, or other structures or of water pumps or other devices and apparatus for the manufacture, desalination, treatment, polishing, storage, supply, sale or distribution of water;

(iii) for the manufacture, purchase or acquisition, sale or disposal of, possession of or control over any water pump or any other apparatus related to the production, supply or distribution of water;

(iv) to discharge or otherwise dispose of trade effluent as directed by the Corporation and after such treatment as the Corporation may deem necessary;

(v) to dispose of stormwater run-off to water courses or water bodies as directed by the Corporation and after such treatment as the Corporation may deem necessary,

and may attach to any licence as aforesaid such terms and conditions as it thinks fit and may also make any arrangements and enter into any agreement with any person for any of the purposes aforesaid, or otherwise in connection with any of its functions under this Act, as it may deem appropriate or expedient.

(b) The provisions of subparagraphs (i) to (iii) of paragraph (a) do not apply to bottled table water.

(2) Licences issued under subsection (1) of this section and any terms and conditions, arrangements or agreements made thereunder, shall, subject to their renewal, be valid for such period for which they are granted, made or renewed:

Provided that if no period of validity is so specified, any such licence, arrangement or agreement shall be valid until the 31st December of the year in which they are granted, made or renewed.

(3) There shall be payable on the issue and renewal of any licence under this section such fees as may be prescribed.

(4) A licence issued under this section, and terms and conditions thereof, and any arrangement or agreement to which the proviso to subsection (2) of this section applies, may at any time be suspended or revoked by the Corporation with the concurrence of the Minister, if circumstances exist which, in the opinion of the

Corporation, any such licence, arrangement or agreement should be suspended or revoked. Any such suspension or revocation shall be without prejudice to any liability which the holder of the licence may have incurred under this or any other law.

(5) Where a person acts in breach of any term or condition of a licence granted by, or of an arrangement or other agreement made with the Corporation, he shall be deemed to have acted without such a licence, arrangement or agreement.

(6) The issue of a licence by, or the making of any arrangement or agreement with the Corporation shall not exempt any person from the requirements of any other law.

Power to make regulations.

45. The Corporation may, with the approval of the Minister, make regulations not inconsistent with the provisions of this Act to prescribe:—

(a) the duties of any officers of the Corporation appointed under section 36 of this Act for the purpose of carrying out inspections, the intervals, times and manner in which any installation, apparatus or other property of the Corporation shall be inspected, and the notice (if any) to be given in relation to inspections;

(b) the conditions under which any installation, apparatus, materials, fittings and other property of the Corporation shall be installed, operated, maintained, protected, controlled or in any way safeguarded, the manner of laying safely and the prohibition of the use of any dangerous installation, apparatus or fittings;

(c) the conditions on which, the manner in which, the time at which and the quantity in which water is to be supplied;

(d) the conditions in respect of the use of water pumps and any apparatus used in the production, manufacture and distribution of water and in respect of the sinking, excavation, enlargement or modification and use of wells;

(e) provisions applying to the sinking of wells, and the use of wells and water pumps in water controlled areas;

(f) the conditions under which money advances may be made to owners of tenements desirous of sinking wells, driving galleries, constructing conduits, or otherwise improving the water supply in their tenements;

(g) the standards to be adopted for measurement of dimensions of installations and apparata, and the manner in which water supplied shall be measured;

(h) the conditions on which the supply of water may be turned off or restricted;

(i) any tariff of fees, rent, and charges which may be or are required to be prescribed by or under the provisions of this Act, or of any regulations made thereunder and the time, place and manner for the payment of such fees, rent, or charges and the mode of collecting thereof;

(j) the qualifications to be possessed by persons before they may be entrusted with the construction, laying, repair, alteration or control of any apparatus, fittings or installations and the nature of the tests to be employed for ascertaining whether persons possess such qualifications;

(k) the measures to be taken, the nature and quality of materials and the fittings to be supplied and used in connection with installations in order to secure public safety and private safety;

(l) the quality, design and workmanship standards required in all connections to sewers, waste water or stormwater run-off systems owned by the Corporation;

(m) the methods to be adopted for the provisions of services by the Corporation, the security to be furnished by persons who wish to avail themselves of such services, the conditions for the discontinuance of such services in cases where the requirements of this Act or of any regulation made thereunder is not complied with, or where a person is in arrears of his payments of any proper prices, charges or fees or uses defective apparatus, instruments or fittings, and also in other cases where such discontinuance may be deemed necessary or advisable;

(n) the terms and conditions under which Departments of the Government or public bodies or authorities may have, jointly with the Corporation, facilities in respect of which the Corporation has exclusive rights as provided under section 3 of this Act;

(o) such matters in connection with the issue of debentures or debenture stock under this Act as the Board may deem it necessary or expedient to prescribe, and, in particular, for regulating the method of issue, transfer, redemption, or other dealing with such debentures or debenture stock;

(p) any matter relating to any activity, function or other thing in respect of which the Corporation is the exclusive authority or in respect of which a licence of, or an agreement or arrangement with the Corporation is required by this Act, including the terms and conditions under which any such activity or function may be performed, or any exemption may be made or given, and such other matter as may be necessary or expedient to be provided for in relation to any of the aforesaid matters;

(q) the penalties, being not more than a fine *(multa)* of ten thousand Maltese liri, to which a person committing an offence against this Act or contravening any regulation made under this Act may be liable on conviction;

(r) any other matter which may be or is required to be prescribed by this Act.

Publication of regulations in the Government Gazette.

46. Any order made under section 22 or under subsection (3) of section 34 of this Act shall be published in the Government Gazette.

Saving as to domestic wells.

47. The provisions of this Act shall not apply to any cistern or well in any dwelling house, which is required to be constructed under any law, and the provisions of this Act shall not be deemed to require any licence or permit for the construction and maintenance of any such cistern or well; so however that this section shall not preclude the Corporation from exercising any of its functions and powers under this Act for the purpose of ensuring that water is not wasted or misused and that no damage is caused to the aquifer or elsewhere.

Exemption from the provisions of this Act.

48. The Prime Minister may, by written order under his hand, exempt any person, authority or institution from the provisions of this Act for such time and under such conditions as are set down in such an order, and may by similar order cancel any exemption so given.

Power of entry for ascertaining conditions of installations etc.

49. Any officer of the Corporation, duly authorised by the Board may, at all reasonable times, enter any premises in which any collecting area, spring, well, watercourse, gallery, cistern, conduit or any water, sewer, waste water, fittings or service, apparatus, installation, instrument, plant or accessories are, have been or are to be constructed, laid or installed for the manufacture, desalination, treatment, polishing, provision, storage and distribution of water or for the purposes of providing drainage to the sewers, for the purposes of:—

(a) inspecting any of the items mentioned above and ascertaining whether there be any waste of water from the waterworks, or other thing contrary to the provisions of this Act, or to the regulations made thereunder;

(b) maintaining and, if need be, repairing, altering, or making additions to any of the items mentioned above which is so out of repair as to cause waste of water, or which is defective or wanting in any thing prescribed by this Act or any regulations made thereunder;

(c) ascertaining such data or information as the Board may require in connection with the services given by the Corporation;

(d) removing all or any water fittings or service, apparatus, installation, instrument, plant or accessories belonging to the Corporation, whenever any service provided by the Corporation is no longer required or where the Corporation is authorised by or under this Act to withdraw its services;

(e) the inspection, alteration or repair of 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, inspection or removal.

Offences relating to precautions in the execution of works.

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.

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

Other offences.

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; or

(c) where a licence or other permit is required under the provisions of this Act or under any regulations as aforesaid, for the use of the services of facilities of the Corporation, makes use of such services or facilities without such a licence or permit or contravenes or fails to comply with the conditions of any such licence or permit, shall be guilty of an offence against this Act.

Repeal and savings.

53. (1) Subject to the provisions of this Act, the following enactments, that is to say:—

Cap. 22. (a) Water Supply Ordinance,

Cap. 105 (b) Irrigation Ordinance,

Cap. 114. (c) Underground Water Ordinance,

are hereby repealed.

(2) The repeal of the Ordinances aforesaid shall be without prejudice to anything done or omitted to be done under the said Ordinances. Any punishment incurred in respect of any offence committed against any provisions thereof, and any investigation, legal proceeding or remedy may be instituted, continued or enforced, and any penalty, forfeiture or punishment may be imposed as if that Ordinance had not been repealed.

(3) All regulations, rules or orders and all licences made under, or kept in force under the Ordinances repealed by this Act immediately before such 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.

G.N. 133 of 1948.

(4) Any reference in any other law to the "Water Authority", the "Water Board" the "Department of Water" or "the Water Department" shall be construed as a reference to the Water Services Corporation constituted under this Act.

(5) 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.

SCHEDULE

(Section 22)

Provisions to joint meter-reading, account-keeping and bill collection service and as to the exercise of certain functions by the Water Services Corporation on behalf of Enemalta

1. The Corporation is hereby appointed in the name and on behalf of Enemalta to exercise and perform as fully and effectually in all respects as Enemalta itself all such functions as are or may from time to time be lawfully vested in Enemalta in respect of the acts and matters following namely:—

(a) to demand, require, receive, accept, cancel, waive and generally deal with any suretyship, security, deposit or undertaking in respect of sums due to Enemalta for the supply of electrical energy, meter charge and services (hereinafter in this Schedule referred to as "sums due to Enemalta");

(b) to carry out the reading of meters for the purpose of ascertaining the quantity of electrical energy supplied and, where applicable, the maximum demand;

(c) to keep accounts showing the sums due to Enemalta and to preserve any books or documents relating to or connected with such accounts;

(d) to undertake the computation, service and collection of bills in respect of sums due to Enemalta;

(e) to receive from consumers of electrical energy any notice of:—

(i) intention to discontinue the use of such energy;

or

(ii) the carrying out of alterations to premises or to installations;

(f) to cause the supply of electrical energy to any consumer to be suspended in the case of non-payment of sums due to Enemalta after the expiration of the prescribed period, or of unjustified refusal of access to the premises; and for this purpose to cause the main fuses to be removed or the installation to be disconnected at the mains, whether overhead or underground;

(g) to cause the meter to be removed from the premises in the case of delay in the payment of sums due to Enemalta beyond three months, or earlier if so deemed necessary;

(h) to reconnect the supply and, if necessary, replace the meter after payment of sums due to Enemalta has been made;

(i) to enter upon any premises and to carry out and do therein any Act or thing within the authority of Enemalta;

(j) to assess, by means of such criteria as are within the discretion of Enemalta the consumption of electrical energy in any premises to which entry for the purpose of reading the meters has been refused after reasonable notice has been given;

(k) generally to perform any other Act, incidental or supplementary to the foregoing, which Enemalta, but for the provisions of this Schedule, would have been entitled to perform in relation to and for the purposes of meter-reading, account-keeping and bill collection as applicable to the supply of electrical energy.

2. If any sums due to Enemalta shall not be paid or if any goods or materials belonging to Enemalta are not returned by any consumer of electrical energy, the Corporation may, notwithstanding the provision of section 1986 of the Civil Code, take any legal or other proceeding authorised by law for the recovery thereof in the name and on behalf of Enemalta; and for the purposes of section 466 of the Code of Organisation and Civil Procedure, the Corporation shall be deemed to be acting as a Head of Department in respect of so much of any such proceedings as are taken on behalf of Enemalta.

Cap. 23

Cap. 15

3. While they are acting within the limits of the powers conferred on the Corporation by or under the provisions of this Schedule, the officers and servants of the Corporation shall, for the purposes of any enactment or regulation containing any reference to the officers and servants of Enemalta, be deemed to be also the officers and servants of Enemalta.

4. The Corporation may, in respect of the accounts of Enemalta and of sums due to Enemalta, continue in force any arrangements entered into with any other Government Department for the computing of bills and keeping of accounts and for the provision of legal or other assistance.

5. Enemalta shall have a right of access to and inspection of the accounts kept by the Corporation in relation to the activities of Enemalta and shall have the right to keep at the offices of the Corporation such number of representatives as may from time to time be agreed between Enemalta and the Corporation.

6. From time to time as occasion may require, Enemalta and the Corporation may by means of a public deed in the acts of the Notary to Government, the terms of which shall first be approved by the Minister, enter into an agreement (hereinafter in this Schedule referred to as "the agreement") regulating all or any of the following matters:—

(a) the access to and inspection of the accounts and the number and powers of the representatives of Enemalta referred to in paragraph 5 of this Schedule;

(b) the consideration (including reimbursement of any expenses and administrative charge properly met or incurred by the Corporation) to be paid to, or to be retained by, the Corporation in respect of the exercise and performance by the Corporation of the functions vested in it by this Schedule;

(c) the periods at which and the manner in which the Corporation shall remit to Enemalta sums collected by the Corporation on behalf of Enemalta or, to the extent that arrangements for set-off are made in the agreement, such balances thereof as are outstanding after any amounts due to the Corporation under the last preceding sub-paragraph have been deducted;

(d) the time and method of exchanging information and of using means of consultation between Enemalta and the Corporation for the better execution in their joint interest of the provisions of this Schedule and of the agreement;

(e) the financial, banking, auditing and administrative procedures to be followed by both sides for the regular and efficient working of the arrangements exisiting between them including, without prejudice to the generality of the foregoing, the forms to be

used, the documents to be preserved, the books to be kept, the returns to be made, the notices to be given or communicated and the accounts to be rendered;

(f) such other matters incidental and supplementary to the foregoing for which, with the approval of the Minister, they may deem it necessary and expedient to provide.

7. The Minister shall cause a copy of the agreement to be laid on the Table of the House of Representatives.

Passed by the House of Representatives at Sitting No. 572 of the 12th November, 1991.

LAWRENCE GONZI
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives.

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