

# THE WASTEWATER MANAGEMENT AUTHORITY ACT 2000

Act No. 39 of 2000

Proclaimed by [\[Proclamation No. 14 of 2001\]](#)- w.e.f 30 August 2001

I assent

30th November 2000

President of the Republic

CASSAM UTEEM

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### **An Act**

To provide for the establishment of the Wastewater Management Authority and a legal framework for the wastewater sector

ENACTED by the Parliament of Mauritius, as follows –

## PART I – PRELIMINARY

### 1. **Short title**

This Act may be cited as the Wastewater Management Authority Act 2000.

### 2. **Interpretation**

In this Act -

"Authority" means the Wastewater Management Authority established under section 3;

"Board" means the Wastewater Management Authority Board established under section 8;

"conduit" means a structure, including a pipe, passage way or channel and its connections above or below ground, which is designed or used to convey water, effluent, sewage or wastewater;

"Contrat de Délégation" means a contract embodying the terms and conditions by which the public wastewater management and service or the, operation and maintenance of any wastewater system is delegated to the Authority;

"Convention de Maitrise d'Ouvrage Déléguée" means a contract embodying the terms and conditions by which the Authority undertakes to execute such wastewater works as are mentioned in the contract;

"effluent" means wastewater, whether treated, treated partially or untreated, produced by or discharged from industrial, commercial or domestic premises or wastewater works;

"General Manager" means the chief executive officer appointed under section 11;

"house connection" means any pipe or conduit providing private wastewater services for the conveyance of effluent from private premises to the public sewer;

"house drain" means any conduit, whether covered or not, used or intended to be used for the collection, conveyance and removal of rain water falling on or flowing from any roof, terrace, yard, garden or any part of any tenement;

"house sewer" means any sewer intended to be used for the removal of effluent from any property and its conveyance into the wastewater system;

"member" means a member of the Board and includes the Chairperson;

"Minister" means the Minister to whom responsibility for the subject of wastewater is assigned;

"occupier" means any person in actual occupation of a property without regard to the title under which he occupies;

“owner” means -

- (a) the person who for the time being receives or, if the property were to be let, would be entitled to receive, the rent for the property, whether for his own benefit or that of any other person;
- (b) the Occupier, where the owner cannot be found or ascertained or is not in Mauritius or is not reasonably available;
- (c) the Permanent Secretary of the Ministry in charge of the property, where it belongs to the State;
- (d) the lessee, in the case of leased State Land;
- (e) the person to whom the management is entrusted, in all other cases of public property;

“premises” means land or tenement, whether enclosed or not, built on or not, and includes any building, hut, shed, tent or other structure above or below ground on such land or tenement;

“road” has the same meaning as in the Roads Act;

“sewer”

- (a) means any conduit used or intended to be used for the reception, conveyance or removal of effluent; and
- (b) includes manholes, tanks, traps, valves, syphons and other appliances provided or used in connection therewith;

“treatment plant” means any tank, apparatus or assembly meant to effect the treatment of effluent;

“vesting day” in relation to Part V, means

- (a) the day prescribed by the Minister, as defined in the Central Water Authority Act, in respect of the assets of the Central Water Authority; or
- (b) the day prescribed by the Minister, as defined in the Waste Water Authority Act 1991, in respect of the assets under the control of the Waste Water Authority under the Waste Water Authority Act 1991;

“wastewater” means water sullied or contaminated by any matter, in solution or suspension, derived from its use in connection with domestic, industrial or other activities;

“wastewater system” -

- (a) means all sewers, conduits, pumps, engines and other appliances used or intended to be used for the reception, conveyance, removal, treatment and disposal of effluent; and
- (b) does not include house sewers;

"wastewater fee or rate" means the fee or rate levied under section 25;

"wastewater works" means such works as may be required or done for the collection, conveyance, treatment and disposal of wastewater and includes maintenance of such works.

## PART II - ESTABLISHMENT AND FUNCTIONS OF THE AUTHORITY

### **3. Establishment of the Authority**

- (1) There is established for the purposes of this Act a Waste-water Management Authority.
- (2) The Authority shall be a body corporate.

### **4. Objects of the Authority**

The objects of the Authority shall be to -

- (a) be responsible for the, wastewater sector in Mauritius and to carry out, monitor, supervise, maintain, manage and control wastewater works;
- (b) promote the treatment and reuse of wastewater;
- (c) conduct and undertake research and studies for the implementation and development of projects relating to the waste water sector;
- (d) ensure the generation of sufficient resources from tariffs to finance the operation, maintenance and depreciation costs of wastewater systems, sewerage and sewage treatment installations;
- (e) ensure the proper functioning, inspection and maintenance of house sewers and wastewater systems;
- (f) control and monitor pollution, private sewers and the use of equipment in relation to wastewater systems;
- (g) advise the Minister on any matter relating to the management of wastewater.

### **5. Duties of the Authority**

- (1) The Authority shall be the main undertaker for the collection, treatment and disposal of wastewater throughout Mauritius.

- (2) The duties of the Authority shall be to –
- (a) take over, maintain and manage all existing public sewers and wastewater systems existing in Mauritius;
  - (b) manage and run any wastewater system including public sewers or equipment, whether vested in it by way of a "Contrat de Délégation" or otherwise;
  - (c) recover through tariffs user fees that may be claimed in respect of the lease of assets under a "Contrat de Délégation";
  - (d) extend as far as practicable the public wastewater system so as to provide sewerage facility to all properties, domestic, commercial or industrial;
  - (e) undertake wastewater treatment to such, predetermined quality as may be prescribed for safe disposal of the effluent and sludge to the environment or re-use;
  - (f) carry out and co-ordinate studies for the implementation of any project which may be devised for research and investigation for the economic collection, treatment and safe disposal of wastewater;
  - (g) control and monitor the pollution discharged to wastewater systems by any person;
  - (h) ensure that any storm drainage is not connected or does not get mixed up with the wastewater system;
  - (i) regulate the construction of private sewers, enforce their maintenance according to such standards as may be prescribed and provide for their inspection;
  - (j) ensure that appropriate equipment are used in relation to all types of wastewater and provide for inspection of such equipments;
  - (k) establish and maintain laboratories for the purpose of testing wastewater and sanitary equipments;
  - (l) carry out, against payment of such fees as may be prescribed for and on behalf of any Authority or Organisation responsible for the enforcement of wastewater laws, any wastewater analysis which may be necessary for such enforcement.

## **6. Powers of the Authority**

- (1) The Authority shall have all the powers necessary for the administration of this Act and in particular may –

- (a) do all such things as may be required for the efficient collection, treatment and disposal of wastewater and related functions, including the necessary measures for the prevention of the discharge of industrial and other wastes into the wastewater system;
  - (b) provide for cesspit/septic tank emptying services on payment of such fees as may be prescribed;
  - (c) carry out wastewater works on, over or under any public road, lane, footpath, track, bridge, river-bed, sea-bed or other place; .
  - (d) ensure and regulate the connection of premises to the public sewer;
  - (e) enter premises under prescribed conditions for the purpose of preparing and checking of plans for the more efficient management of the wastewater sector;
  - (f) build, repair, alter, extend or renew any house connection where reasonably necessary and recover from the owner of the property the costs incurred for such works;
  - (g) suppress any connection of the storm drainage system to the wastewater system;
  - (h) lease from any person, on such terms and conditions as the Authority may determine, any plant and machinery;
  - (i) contract out, subject to such conditions as it thinks fit, any works or services it is empowered to carry out;
  - (j) with the approval of the Minister, enter into an agreement in the nature of a "Convention de Maitrise d'Ouvrage Délégée" with any person and for that purpose with any person interested in owning, establishing or financing in whole or in part any wastewater system;
  - (k) enter into an agreement in the nature of a "Contrat de Délégation" or otherwise for the operation and maintenance of any wastewater system;
  - (l) do all such things as appear requisite and advantageous for the furtherance of its objects and for the performance of its duties;
  - (m) to levy fees, charges, rates or other dues.
- (2) The Authority may grant such licence as may be prescribed to a private undertaker for the collection, treatment and disposal of wastewater or for carrying -out any works or services which the Authority is empowered to carry out under this Act.

## 7. Compensation

- (1) The Authority shall, as far as practicable, restore to its original condition any property which may have been disturbed in the course of works carried out by it.
- (2) Where the owner of a property sustains any prejudice, including loss of value of the property, by reason of any works carried out by the Authority, the Authority shall pay to such owner adequate compensation.
- (3) Subject to section 35, any person aggrieved by the Authority's failure to pay to him compensation as provided by subsection (2) or by the inadequacy of compensation offered to him, may, by way of plaint with summons entered before the Court having jurisdiction to entertain the claim, claim from the Authority the amount to which he considers being entitled for the prejudice sustained by him.
- (4) Any judgment in respect of a claim made under this section shall be subject to an appeal to the Supreme Court in the manner provided by -
  - (a) the District and Intermediate Courts (Civil Jurisdiction) Act, for appeals from the District Court or the Intermediate Court; '
  - (b) the Court of Civil Appeal Act, for appeals from the Supreme Court.
- (5) Notwithstanding any other enactment, an action under subsection (3) shall, under pain of nullity, be instituted within 2 years from the date of the fact, act or omission which has given rise to the cause of action for compensation.

### **PART III - MANAGEMENT OF THE AUTHORITY**

#### **8. Establishment of the Board**

- (1) The Authority shall be administered by a Board which shall be known as the Wastewater Management Authority Board.
- (2) The Board shall consist of
  - (a) a Chairperson appointed by the Minister;
  - (b) a representative of the Ministry responsible for the subject of finance;
  - (c) a representative of the Ministry responsible for the subject of economic development;
  - (d) a representative of the Ministry responsible for the subject of wastewater;
  - (e) a representative of the Ministry responsible for the subject of water resources;
  - (f) a representative of the Ministry responsible for the subject of health;



- (g) a representative of the University of Technology, Mauritius;
  - (h) one member with wide experience in environmental matters, appointed by the Minister;
  - (i) 2 members having wide experience in consumer interests, appointed by the Minister.
- (3) Subject to subsection (5), a member other than an ex officio member shall hold office for not more than 2 years but shall be eligible for reappointment for not more than 2 consecutive terms.
- (4) No person shall be qualified to be a member if
- (a) he is not a citizen of Mauritius;
  - (b) he is engaged in any political activity;
  - (c) he is a member of the National Assembly.
- (5) A member shall be removed from office where -
- (a) after his appointment he becomes disqualified from holding office under subsection (4); or
  - (b) he becomes engaged, during the term of his office, in any kind of political activity.
- (6) For the purposes of subsections (4) and (5), any person who -
- (a) is a candidate, agent or official of a candidate at an election; or
  - (b) is an employee of a political party,
- shall be deemed to be engaged in political activity.
- (7) A member of the Board who has a direct or indirect pecuniary or other interest in a matter being considered or about to be considered by the Board shall forthwith, or as soon as practicable after the relevant facts have come to his knowledge, disclose in writing the nature of his interest to the Board and shall not be present during any deliberation of the Board or take part in any decision of the Board with respect to that matter.
- (8) A member shall be paid such fees or allowances as the Minister may determine.

## **9. Powers of Minister**

- (1) The Minister may, in relation to the exercise by the Board of the powers of the Authority under this Act, give to it such general directions, not

inconsistent with this Act, as he considers to be necessary in the public interest, and the Board shall comply with such directions.

- (2) The Minister may require the Board to furnish to him any information or document in relation to the activities of the Authority and the Board shall comply with any such request.

#### **10. Meetings of the Board**

- (1) The Board shall meet at least once in every month at such time and place as the Chairperson may decide.
- (2) Five members of the Board, of whom at least one should be a non ex officio member, shall constitute a quorum.
- (3) The General Manager shall convene a meeting upon request to that effect made by not less than 3 members of the Board.
- (4) The General Manager of the Authority shall attend every meeting of the Board and may take part in its deliberations but he shall not be entitled to vote on any question before the Board.
- (5) The Board shall regulate its meetings in such manner as it thinks fit.

#### **11. General Manager**

- (1) There shall be a Chief Executive Officer of the Authority who shall be -
  - (a) known as the General Manager;
  - (b) appointed by the Board with the approval of the Minister, on such terms and conditions as it thinks fit.
- (2) The General Manager shall –
  - (a) be responsible for the execution of the policy of the Board and for the control and management of the day to day business of the Authority;
  - (b) act in accordance with such directions as he may receive from the Board;
  - (c) submit to the Board every 3 months, a report on the activities and finances of the Authority.

#### **12. Delegation**

Subject to such instructions or rules of a general nature as it may give or make, the Board may delegate to the General Manager such of its powers under this Act as may be necessary to assist him in the effective management of the day to day business and activities of the Authority, other than the power -

- (a) to borrow money;
- (b) to enter into any transaction in respect of capital expenditure which exceeds 500,000 rupees.

**13. Management of assets and funds**

The Board shall manage and utilise all the assets and funds vested in the Authority, including those so vested through a "Convention de Maitrise d'Ouvrage Délégée", "Contrat de Délégation" or otherwise in such manner and for such purposes as, in its opinion, will best promote the objects of the Authority.

**14. Appointment of employees**

- (1) The Board may appoint, on such terms and conditions as it thinks fit, such employees as it considers necessary for the proper discharge of its functions under this Act.
- (2) Every employee shall be under the administrative control of the General Manager.

**15. Conditions of service of employees**

The Board may make provision to govern the conditions of service of the employees of the Authority and, in particular, to deal with –

- (a) the appointment, dismissal, discipline, pay and leave of and the security to be given by any category of employees;
- (b) the establishment and maintenance of provident and pension fund schemes and the contribution payable to and the benefits recoverable from those schemes.

**16. Protection of members and officers**

- (1) No liability, civil or criminal, shall attach to any member or officer of the Authority in respect of any act which he may have done or omitted to do, in good faith, in the execution or purported execution of his duties under this Act or any subsidiary enactment made thereunder.
- (2) This section shall be in addition to and not in derogation from the Public Officers' Protection Act and every member or officer of the Authority shall, for the purposes of that Act, be deemed to be a public officer or a person engaged or employed for the performance of a public duty.

**PART IV - FINANCIAL PROVISIONS AND ACCOUNTS**

**17. General Fund**

- (1) The Board shall establish a General Fund

- (a) into which shall be paid -
    - (i) all donations, -rants and contributions received by the Board;
    - (ii) any charge, rate or fee as may be prescribed; and
    - (iii) any other sum which may lawfully accrue to the Fund;
  - (b) out of which all payments required to be made by the Board shall be effected.
- (2) The Board may, in the discharge of its functions, charge to the General Fund all remunerations, allowances, salaries, bonuses, fees, gratuities, pensions, superannuation fund contributions and working expenses or other charges properly arising.

**18. Transfer of property and borrowing by Authority**

- (1) The Authority shall not, except with the approval of the Minister -
- (a) sell or exchange any property or make any donation;
  - (b) borrow any sum of money it may require for purposes of carrying out its duties under this Act.

**19. Raising of funds**

- (1) Subject to the approval of the Minister, the Authority may, for the purposes provided in section 18, raise funds on such terms and conditions as the Board may determine by -
- (a) negotiations of loans within or outside Mauritius,
  - (b) the issue of debentures.
- (2) The Authority may secure the repayment of any funds raised under subsection (1) by a charge or mortgage over the whole or part of its assets as the Board may, with the approval of the Minister of Finance, determine.

**20. Register of debentures**

- (1) The Authority shall keep at its principal place of business -
- (a) a register of debentures issued by the Authority; and
  - (b) a copy of every outstanding debenture or, in the case of a uniform series of debentures, a copy of the series.
- (2) The register of debentures shall show, in respect of each transaction

- (a) the names of the parties;
  - (b) the principal sum payable;
  - (c) the date of repayment; and
  - (d) such other particulars as may be prescribed.
- (3) The register required to be kept under this section shall be made available for inspection -
- (a) by any creditor of the Authority, free of charge; or
  - (b) by any other person on payment of a charge of 10 rupees.

## **21. Debentures may be a charge**

A debenture issued under this Act may be made the subject of a charge under the Code Napoléon.

## **22. Pledging of debentures**

- (1) A debenture issued under this Act may be given in pledge in any civil or commercial transaction by a written instrument signed by the pledgor and the pledgee.
- (2) The instrument shall state
  - (a) the nature of the debt in respect of which the pledge is given;
  - (b) that the debenture issued to the pledgor has been delivered to the pledgee in warranty of the debt.
- (3) No pledge shall be valid unless the debenture delivered to the pledgee has been endorsed by the Authority.
- (4) Where a debenture has been given in pledge, the Authority shall, after endorsement of the debenture, make an entry to that effect in its register of debentures.
- (5) Notwithstanding articles 2074 and 2075 of the Code Napoléon, a pledge given under this section shall, to all intents and purposes, be valid as regards the parties to the pledge or any third part.
- (6) Where the Authority is satisfied that a pledge given under this section has been redeemed, it shall cancel the endorsement on the debentures relating to the pledge and make an entry to that effect in the register of debentures.

## **23. Liquidity**

The Authority shall hold

- (a) in cash;
- (b) in funds realisable on demand or at short term; or
- (c) in securities approved by the Minister,

a sum equivalent to such proportion of the cash flow and liabilities of the Authority as may be approved by the Minister.

#### **24. Estimate**

- (1) The Authority shall, not less than 3 months before the end of every financial year, submit to the Minister an estimate of the revenue and expenditure of the Authority for the next financial year.
- (2) Subject to subsection (3), the Minister shall, before the beginning of the financial year, signify in writing his approval of the estimate.
- (3) Where the Minister signifies his approval under subsection (2), he may -
  - (a) approve part only of the expenditure under any item;
  - (b) direct the Authority to amend the estimate in respect of any item in such manner as he thinks fit.

#### **25. Wastewater fees, rates and connection charges**

- (1) Every owner or occupier of property connected to the wastewater system shall be liable to pay such wastewater fees, charges or rates as may be prescribed.
- (2) The Authority may levy on every owner of property connected to the wastewater system such connection charges as may be prescribed.
- (3) Notwithstanding subsection (1) or any other provisions of this Act, every owner or occupier of premises connected to the wastewater system and who is liable to pay water charges, fees or rates to the Central Water Authority under any enactment shall pay the wastewater fees, charges or rates in such manner as may be prescribed under this Act or the Central Water Authority Act.

#### **26. Collection and recovery of fees, rates, charges and other dues**

Fees, rates, charges and other dues accruing to the Authority shall be collected either directly by the Authority or by any other person for and on behalf of the Authority, on such terms and conditions as may be approved by the Minister.

#### **27. Charges, loan redemption and depreciation**

The Authority shall make adequate provision for -

- (a) the payment of all rents and charges in respect of assets leased to it;
- (b) the redemption of loans at due times;
- (c) interest on all other charges and expenses incurred in connection with loans;
- (d) the depreciation of assets owned by it;
- (e) the debt servicing in respect of assets vested in the Authority where the assets have not been fully amortised.

**28. Execution of documents**

- (1) Subject to subsection (2), all documents shall be deemed to be executed by or on behalf of the Authority if signed by -
  - (a) the Chairperson; or
  - (b) the General Manager.
- (2) Any cheque of the Authority shall be signed by
  - (a) the Chairperson; and
  - (b) the General Manager or such other person as may be appointed for the purpose by the Board.

**29. Exemption**

No registration fee or duty shall be payable in respect of any document issued or executed by, on behalf of or to the benefit of the Authority.

**30. Accounts**

- (1) The Board shall, on or before 31 October every year, submit to the Minister a report together with an audited statement of accounts on the operations of the Authority in respect of 12 months ending on 30 June of the same year.
- (2) The Minister shall at the earliest available opportunity lay a copy of the report of the Board before the National Assembly.

**PART V - TRANSFER OF ASSETS AND LIABILITIES**

**31. Vesting of property in Authority**

- (1) Subject to subsection (2), there shall be vested in the Authority on the vesting day such part of the assets and properties of the Central Water Authority or the Authority constituted under the Waste Water Authority Act 1991 as may be specified in an instrument drawn up by the Minister.

- (2) The Minister shall not make the instrument under subsection (1), unless -
  - (a) in the case of capital assets, the Minister is satisfied that the Authority is generating adequate revenue to meet operation, maintenance, depreciation and debt servicing costs;
  - (b) in case of operational assets, their economic life does not exceed 7 years.
- (3) The Minister may by an instrument transfer to any other body corporate any property vested in the Authority under subsection (1) and any other property which the Authority may afterwards acquire where those properties are held by the Authority for public purposes, in which no money has been invested other than money provided from public funds.

### **32. Transfer of rights and liabilities**

- (1) Any contract entered into by -
  - (a) the Central Water Authority; or
  - (b) the Government of Mauritius,

in relation to wastewater works under the Central Water Authority Act or the Waste Water Authority Act 1991, as the case may be, for property which is vested in the Authority under section 31, shall have effect on and after the vesting day as if it had been entered into on the same terms and conditions by the Authority.

- (2) All obligations and arrangements subsisting against the Central Water Authority or the Government of Mauritius, as the case may be, under a contract referred to in subsection (1) shall continue to exist under the same terms and conditions against the Authority with the Government as *garant solidaire* as provided by the Code Napoléon.
- (3) Where any property vested in the Authority by virtue of section 31 (1) or otherwise is itself transferred to any other body corporate as a result of an Order made under section 31(3), the rights and liabilities of the Authority in respect of the property so transferred, by virtue of this section or otherwise, shall then be transferred, under the same terms and conditions, to such other body corporate.

### **33. Grant of State Land**

The Government of Mauritius may grant to the Authority, on such terms and conditions as it thinks fit, any interest in or over any State land which immediately before the vesting day was occupied, or on which operations were carried out, for the purpose of the wastewater services of the Central Water Authority or the Waste Water Authority established by the Wastewater Authority Act 199 1.

### **34. Authority not to transfer property**



The Authority shall not, except with the approval of the Minister, alienate, charge, sell, dispose of or otherwise deal with any immovable property vested in the Authority under sections 31 or 33.

## **PART VI - LEGAL PROCEEDINGS**

### **35. Proceedings against the Authority**

- (1) (a) No civil suit shall be commenced against the Authority before the expiry of 2 months after written notice to commence the suit is served on the Authority by or on behalf of the intending plaintiff.
- (b) A notice may be served on the Authority by means of registered letter with avis de reception.
- (2) A notice issued under subsection (1) shall clearly and explicitly state -
  - (a) the name and address of the intending plaintiff;
  - (b) the full particulars of the Claim;
  - (c) the cause of action; and
  - (d) the relief claimed.

### **36. Service of documents**

- (1) Any summons, notice or other document, including a notice under section 35, required or authorised to be served on the Authority under this Act or any other enactment may, unless there is specific provision to the contrary, be served by delivery to the General Manager at his office.
- (2) Service of process by or on behalf of the General Manager shall be equivalent to service by or on behalf of the Authority.

## **PART VII - DUTIES OF PUBLIC AND ENFORCEMENT BY AUTHORITY**

### **37. Restriction on free disposal of effluent and water**

- (1) Subject to subsection (2), no person shall without lawful authority -
  - (a) cause effluent to overflow along any gutter, canal or surface;
  - (b) construct or alter any house sewer, treatment plant or disposal system;
  - (c) cause rainwater, surface water or sub-soil water to enter any house sewer;

- (d) construct or install any treatment plant or other assembly meant for the collection, conveyance, treatment or disposal of effluent, without the prior approval of the Authority.
  - (e) use a garbage grinder or similar appliance which is connected to a house sewer.
- (2) No person shall allow water from prises, taps or other outlets, whether they are defective or not, to run freely and in such manner or quantity as to be likely to find its way into any wastewater system.
  - (3) No person shall put or allow to be put into any water-closet, trap, gulley or other inlet to the wastewater system, any matter which is likely to cause or tend to cause an obstruction in the sewerage system or the free flow of effluent.
  - (4) No person shall put or allow to be put in the wastewater system any matter which is likely to affect the system or to be prejudicial to health unless -
    - (a) special agreement has been entered into with the Authority;
    - (b) the effluent is of a type specified by the Authority; and
    - (c) such fees as determined by the Authority have been paid.

**38. Notice of injurious effluent**

- (1) Where the Authority has reason to believe that effluent from any premises is being put or allowed to be put in the wastewater system in contravention of section 37, the Authority may serve a notice on the owner, occupier, manager or other person in charge of the premises requiring him to take appropriate steps to prevent injury or prejudice likely to be caused to the wastewater system within such reasonable time as may be specified in the notice.
- (2) Every person on whom a notice is served under subsection (1) shall comply with it within the time specified in the said notice.
- (3) A notice under subsection (1) may specify the nature of the remedial or preventive measures to be taken.
- (4) Where a person on whom notice is served under subsection (1) fails to comply with the notice, the Authority may, after it has given to that person not less than 24 hours' notice, enter the premises and take whatever steps it considers necessary to prevent the injury or prejudice likely to be caused and claim from the owner or occupier the costs of its intervention.
- (5) The service of a notice -under this section does not preclude any prosecution for an offence under this Act.

**39. Notice of contravention**

- (1) Where the Authority has reason to believe that any provision of this Act is likely to be contravened or is being contravened, the Authority may serve a notice on the owner or occupier of premises requiring him to ensure, within such time as may be specified in the notice, that such contravention does not occur or continue, as the case may be.
- (2) Any notice served pursuant to subsection (1) shall
  - (a) indicate the provision that is likely to be or is being contravened; and
  - (b) shall not preclude any prosecution for any offence.

#### **40. Wastewater works**

- (1) Where the Authority is of the opinion that wastewater Works have to be carried out on any premises to prevent risk of danger to the occupants of those premises or to the public, the Authority may serve a notice requiring the owner or occupier of the premises to carry out such wastewater works as may be necessary in the circumstances within the time limit fixed in the notice.
- (2) Where a person on whom a notice under subsection (1) has been served fails to comply with that notice, the Authority may, after it has given to that person not less than 24 hours' notice, enter the premises and carry out the wastewater works.
- (3) The costs of the works carried out under subsection (2) shall be borne by the person on whom notice was served.

#### **41. Sub-soil water and drains**

- (1)
  - (a) Where the Authority considers that sub-soil water is likely to enter the wastewater system, it may cause sub-soil drains to be constructed on any property.
  - (b) Before entering any property and carrying on the works for the purpose of paragraph (a), the Authority shall serve on the owner or occupier of the property a notice of its intention to carry out those works not less than 10 days before the start of the works.
- (2) Sub-soil water shall be carried off by separate pipes or channels and discharged at such place as the Authority may direct.
- (3) Where a person on whom a notice under subsection (1) has been served fails to comply with that notice, the Authority may, after it has given to that person not less than 48 hours' notice, enter the premises and carry out the works.
- (4) The costs of the works carried out under subsection (3) shall be borne by the person on whom notice was served.

**42. Design of sewers, treatment plant and disposal systems**

- (1) No person shall construct or allow the construction of any Louse sewer, treatment plant or disposal system over property owned or occupied by him, otherwise than in accordance with the designs prescribed or approved by the Authority.
- (2) The Authority may impose such terms and conditions as it deems fit to any approval granted under subsection (1).
- (3) The Authority may supervise the execution of any works mentioned in subsection (1) and may claim from the owner of the property such fees as may be prescribed for such supervision.
- (4) Before entering any premises for the purpose of supervision under subsection (3), the Authority shall give adequate notice to the owner or occupier of those premises.

**43. Recovery of expenses**

- (1) The Authority may claim from the owner or occupier of premises any expenses properly incurred for any services provided or performed by the Authority under this Act or in connection with the collection, conveyance, treatment or disposal of effluent from such premises.
- (2) The Authority may claim from the owner or occupier of any premises any expenses incurred as a result of any remedial measures or works carried out under this Act.
- (3) Where 2 or more persons are chargeable under subsection (1) or (2), the Authority shall apportion the expenses reasonably between them.
- (4) The expenses recoverable by the Authority under this section and the fees, rates and charges due to it pursuant to sections 25 and 26, may be secured by the Authority by the inscription of a charge on any of the properties of the owner or occupier of premises who has not paid any sum due by him within the delay fixed for payment.

**44. Restricted use of land where sewers exist**

- (1) No person shall, without the prior approval of the Authority -
  - (a) raise any structure or building on any land where sewers have been laid;
  - (b) carry out, on such land, any other works in a way, likely to interfere with the sewers or to prevent access to them.

- (2) Where an application for an approval under subsection (1) is made, the Authority may carry out such enquiries and investigations as the Authority thinks fit.
- (3) The Authority shall thereafter consider the application and refuse or grant the approval, subject to such terms and conditions as it thinks fit to impose.
- (4) Any person aggrieved by the Authority's refusal to approve an application made under subsection (2) or with the terms and conditions attached to an approval may within 21 days of the Authority's decision being communicated to him, appeal in writing to the Minister.

#### **45. Inspection**

- (1) The Authority may appoint such number of officers as it thinks fit to be inspectors for the purposes of this Act.
- (2) An inspector may, after he has given to the owner or occupier of premises not- less than 24 hours' notice -
  - (a) visit and inspect those premises;
  - (b) take samples for the purpose of analysis;
  - (c) require the owner or occupier to give to him all reasonable assistance and provide information and documents for the purposes of the inspection.
- (3) Where a sample is taken under subsection (2) the inspector shall divide the sample in 3 parts, which shall be marked, sealed and signed by him and the person from whom the sample is taken, and shall -
  - (a) deliver one part to the person from whom the sample is taken;
  - (b) retain one part for future comparison: and
  - (c) forward one part to the appropriate laboratory for analysis.

### **PART VIII – MISCELLANEOUS**

#### **46. Police assistance**

The Police shall, in addition to the powers conferred upon it by the Police Act, intervene promptly to assist the Authority in the service of notices, inspection and entry to premises, in the carrying out of disconnection or wastewater works or such other matter as is reasonably necessary for the administration of this Act.

#### **47. Regulations**

- (1) The Minister may make such regulations as he thinks fit for the purposes of this Act.
- (2) Without prejudice to the generality of the powers conferred by subsection (1), the regulations may provide for -
  - (a) the levying and collection of fees, charges, rates or other dues;
  - (b) the installation and use of meters;
  - (c) the connection of premises to the public sewer;
  - (d) the methods and standards of treatment of effluents;
  - (e) the control of the discharge of effluents containing toxic elements;
  - (f) the method of disposal of effluents;
  - (g) the setting up of a trade effluent inspectorate to monitor the disposal of effluents;
  - (h) the setting up of discharge parameters.

**48. Offences and penalties**

- (1) Any person who -
  - (a) contravenes this Act;
  - (b) fails to comply with any requirements of a notice served under section 38, 39 or 40;
  - (c) refuses entry to an officer or the Authority under sections 38, 40, 41, 42 and 45.

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding 12 months.

- (2) Any person who fails to comply with a notice served upon him, under section 38, 39 or 40 shall, in addition to any fine to which he may be liable under subsection (1), be liable to a fine of 1,000 rupees in respect of every day for the period during which he has failed to comply with the notice after the time specified therein.
- (3) Notwithstanding section 14 of the Courts Act and section 72 of the District and Intermediate Court (Criminal Jurisdiction) Act, a Magistrate shall have jurisdiction to try all offences under this Act and may impose any penalty provided by this Act.
- (4) The Magistrate hearing a charge brought under subsections (1) and (2) may, in addition to the penalty provided in these subsections, order the

convicted person to comply with any provision of this Act in such manner and within such delay as the Magistrate may direct.

- (5) Any person who fails to comply with an order made under subsection (4) shall commit an offence and shall, on conviction, be liable to imprisonment for a term of not less than 12 months.
- (6) Section 152 of the Criminal Procedure Act shall not apply to a person convicted under subsection (5).

#### **49. Consequential amendment**

- (1) The Central Tender Board Act 2000 is amended in Part IV of the First Schedule by adding the following item in its appropriate alphabetical order -  
  
The Wastewater Management Authority
- (2) The Central Water Authority Act is amended
  - (a) in section 20(2), by deleting paragraph (m) and replacing it by the following paragraph -
    - (m) to collect such fees or rates, charges or other dues on behalf of the Wastewater Management Authority or such other body as may be approved by the Minister.
  - (b) by adding after section 21 of the following new section-

#### **21 A. Collection of wastewater fees, rates, charges and other dues**

- (1) The Authority shall for and on behalf of the Wastewater Management Authority collect any fees, rates, charges and other dues payable under the Wastewater Management Authority Act 2000 in such manner as may be prescribed under this Act or the Waste water Management Authority Act 2000.
- (2) Every owner or occupier who is liable to pay any fees, rates, charges and other dues specified in subsection (1) shall pay to the Authority the fee, rate, charge or other due, within 21 days of the issue of the bill.
- (3) Where a person fails to comply with subsection (2), the Authority shall -
  - (a) impose a surcharge of 10 per cent of the amount of fees, rates, charges or other dues that the person owed to the Waste Water Management Authority; and
  - (b) may in addition discontinue or disconnect the water supply.
- (4) Subject to subsection (2), the Statutory Bodies (Accounts and Audit) Act is amended in Part H of the Schedule by adding in its appropriate alphabetical order, the following -

Wastewater Management Authority

- (5) The auditor to be appointed under section 5(l) of the Statutory Bodies (Accounts and Audit) Act shall be the Director of Audit.

**50. Transitional provisions**

- (1) Notwithstanding the Statutory Bodies (Accounts and Audit) Act -
- (a) the period extending from the commencement of this Act to 30 June next following shall be deemed to be the first financial year of the Authority;
  - (b) section 7(l) of the Statutory Bodies (Accounts and Audit) Act shall not apply in relation to the first financial year of the Authority.
- (2) Notwithstanding any other enactment, the Authority shall, within a period of one year after the commencement of this Act, offer to every public officer who, immediately before the date of commencement, is in the public service for the purposes of, or in connection with any of the objects of the Authority under this Act, the opportunity to be transferred to the Authority from such date and on such terms and conditions, including accrued pension rights in accordance with the Statutory Bodies Pension Funds Act, being terms and conditions not less favourable than those of his current employment in the public service as at the date of his transfer, as may be specified in the offer.
- (3) An officer who fails to accept in writing an offer made to him by the Authority under subsection (2) within one month after such offer has been made to him, shall be deemed to have refused such offer and the officer shall be deemed to have retired from the service on the ground of abolition of office unless he is offered and accepts posting elsewhere in the public service.

**51. Repeal**

The Waste Water Authority Act 1991 is repealed.

**52. Commencement- Proclaimed by [\[Proclamation No. 14 of 2001\]](#) w.e.f 30 August 2001**

- (1) This Act shall come into operation on a date to be fixed by Proclamation.
- (2) Different dates may be fixed for the coming into operation of different sections of this Act.

Passed by the National Assembly on twenty-first day of November two thousand.

ANDRE POMPON  
Clerk of the National Assembly