WASTE WATER MANAGEMENT AUTHORITY ACT

Act 39 of 2000 – 30 August 2001

Amended 15/21 (NIF); 15/22 (cio 2/8/22); 12/2023 (cio 20/7/2023);

ARRANGEMENT OF SECTIONS

Section

PART I – PRELIMINARY
1. Short title
2. Interpretation

PART II – ESTABLISHMENT AND FUNCTIONS OF AUTHORITY
3. Establishment of Authority
4. Objects of Authority
5. Duties of Authority
6. Powers of Authority

6A Wayleaves

7. Compensation

PART III – MANAGEMENT OF AUTHORITY
8. The Board
9. Powers of Minister
10. Meetings of Board
11. General Manager
12. Delegation
13. Management of assets and funds
14. Appointment of employees
15. Conditions of service of employees
16. Protection from liability

PART IV – FINANCIAL PROVISIONS AND ACCOUNTS
17. General Fund
18. Transfer of property and borrowing
19. Raising of funds
20. Register of debentures
21. Debentures may be a charge
22. Pledging of debentures
23. Liquidity
24. Estimate
25. Fees, rates and charges
26. Collection and recovery of fees, rates and charges
27. Charges, loan redemption and depreciation
28. Execution of documents
29. Exemption
30. Accounts

PART V – TRANSFER OF ASSETS AND LIABILITIES
31. Vesting of property in Authority
32. Transfer of rights and liabilities
33. Grant of State land
34. Authority not to transfer property

PART VI – LEGAL PROCEEDINGS
35. Proceedings against Authority
36. Service of documents
PART VII – DUTIES OF PUBLIC AND ENFORCEMENT BY AUTHORITY
37. Restriction on free disposal of effluent and water
37A. Prohibition on free disposal of effluent and waste water
38. Notice of injurious effluent
39. Notice of contravention
40. Waste water works
41. Sub-soil water and drains
42. Design of sewers, treatment plant and disposal systems
43. Recovery of expenses
44. Restricted use of land where sewers exist
45. Inspection
PART VIII – MISCELLANEOUS
46. Police assistance
47. Regulations
48. Offences and penalties
49. – 52. –

WASTE WATER MANAGEMENT AUTHORITY ACT

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Waste Water Management Authority Act.

2. Interpretation

In this Act –

"Agreement" means an arrangement between the Ministry and the Authority for the implementation of waste water projects and operations and maintenance of the waste water infrastructure;
[Inserted 12/2023 (cio 20/7/2023).]

"Authority" means the Waste Water Management Authority established under section 3;

"Board" means the Waste Water Management Authority Board referred to in section 8;

"Chairperson" means the Chairperson of the Board appointed under section 8 (2);

"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 waste water;

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

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

"ground water" has the same meaning as in section 2 of the Ground Water Act;

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

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

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

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

"Ministry" means the Ministry responsible for the subject of waste water;
[Inserted 12/2023 (cio 20/7/2023).]

"occupier" means a 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; or

(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 a building, hut, shed, tent or other structure above or below ground on such land or tenement;

"public sewer" means a sewer which is under operation, maintenance and supervision of the Authority;

"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 with the conduit;

"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;

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

"waste water fee or rate" means the fee or rate levied under section 25;

"waste water system" –

(a) means a sewer, conduit, pump, engine or other appliance used or intended to be used for the reception, conveyance, removal, treatment and disposal of effluent; and

(b) does not include house sewers;

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

"wayleave" means consent for the applicant to install, and keep installed, the conduit on, under or over the land and to have access to the land for the purpose of inspecting, maintaining, adjusting, repairing, altering, replacing or removing the conduit;
[Inserted 15/21 (NIF)]

"works undertaking contract" means a contract embodying the terms and conditions by which the Authority undertakes to execute such waste water works as are mentioned in the contract.

[S. 2 amended by s. 3 of Act 33 of 2003 w.e.f. 13 September 2003; s. 3 of Act 26 of 2004 w.e.f. 26 August 2004; s. 93 of Act 15 of 2021 (NIF); s. 89 of Act 12 of 2023 w.e.f. 20 July 2023.]

PART II – ESTABLISHMENT AND FUNCTIONS OF AUTHORITY

3. Establishment of 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 Authority

The objects of the Authority shall be to –

(a) be responsible for the waste water sector in Mauritius and to carry out, monitor, supervise, maintain, manage and control waste water works;

(b) promote the treatment and reuse of waste water;

(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 waste water

systems, sewerage and sewage treatment installations;

(e) ensure the proper functioning, inspection and maintenance of house sewers and waste water systems;

(f) control and monitor pollution, private sewers and the use of equipment in relation to waste water systems;

(g) advise the Minister on any matter relating to the management of waste water.

5. Duties of Authority

(1) The Authority shall be the main undertaker for the collection, treatment and disposal of waste water.

(2) The duties of the Authority shall be to –

(a) take over, maintain and manage all existing public sewers and waste water systems;

(b) manage and run any waste water system, including public sewers or equipment, whether vested in it by way of an Agreement or otherwise;
[Amended 12/2023 (cio 20/7/2023).]

(c) recover through tariffs user fees that may be claimed in respect of the lease of assets under an Agreement;
[Amended 12/2023 (cio 20/7/2023).]

(d) extend as far as practicable the public waste water system so as to provide sewerage facility to all properties, domestic, commercial or industrial;

(e) undertake waste water 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 coordinate studies for the implementation of any project which may be devised for research and investigation for the economic collection, treatment and safe disposal of waste water;

(g) control and monitor the pollution discharged to waste water systems by any person;

(h) ensure that any storm drainage is not connected or does not

get mixed up with the waste water 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 is used in relation to all types of waste water and provide for inspection of such equipment;

(k) establish and maintain laboratories for the purpose of testing waste water and sanitary equipment;

(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 any enactment relating to waste water, any waste water analysis which may be necessary for such enforcement.

[S. 5 amended by s. 89 of Act 12 of 2023 w.e.f. 20 July 2023.]

6. Powers of 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 waste water and related functions, including the necessary measures for the prevention of the discharge of industrial and other wastes into the waste water system;

(b) provide for cesspit or septic tank emptying services on payment of such fees as may prescribed;

(c) carry out waste water 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 plans for the more efficient management of the waste water 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 waste water 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 with any person for the implementation of waste water projects and operations and maintenance of waste water infrastructure, and for that purpose with any person interested in owning, establishing or financing, in whole or in part, any waste water system;

(k) enter into an Agreement or otherwise for the operation and maintenance of any waste water system;

(l) do all such things as appear requisite and advantageous for the furtherance of its objects and for the performance of its duties; and

(m) 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 waste water or for carrying out any works or services which the Authority is empowered to carry out under this Act.

[S. 6 amended by s. 89 of Act 12 of 2023 w.e.f. 20 July 2023.]

6A. Wayleaves

(1) Where the Authority has reason to believe that it is necessary or expedient for it to install, and keep installed, the conduit on, under or over the land, the owner or occupier of the land, shall be given a notice by the Authority requiring him to grant the necessary wayleave within a period not exceeding 21 days.

(2) Where the owner of the land is untraceable, the Authority shall serve a notice posted up in a conspicuous place on the land for a period not exceeding 21 days.

(3) Where there is no response from the owner or occupier of the land following the issue of a notice under subsections (1) and (2), the Board may conduct such works as may be necessary and expedient in accordance with the notice.

(4) Where the owner or occupier of the land, having been given a notice, by the Authority requiring him to grant the necessary wayleave within a period not exceeding 21 days specified in a notice –

(a) has objected to give the wayleave before the end of that period; or

(b) has given the wayleave subject to terms and conditions to which the Authority objects; and

(c) where the Authority has been unable to reach an agreement with the owner or occupier of the land within a period of 60 days from the date of issue of the notice,

the Authority may apply to the Utility Regulatory Authority for the determination of the notice to grant the wayleave.

[S. 6A inserted by s. 93 of Act 15 of 2021 (NIF).]

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, a 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 AUTHORITY

8. The Board

(1) The Authority shall be administered by a Board which shall be known as the Waste Water Management Authority Board.

(2) The Board shall consist of –

(a) a Chairperson, to be appointed by the Minister;

(b) a representative of the Ministry responsible for the subject of finance;

(c) –

(d) a representative of the Ministry responsible for the subject of waste water;

(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) a person with wide experience in environmental matters, appointed by the Minister;

(i) 2 persons 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 he –

(a) is not a citizen of Mauritius;

(b) is engaged in any political activity; or

(c) 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), a 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 a political activity.

(7) A member who has a direct or indirect pecuniary or other interest in a matter being considered or about to be considered by the Board shall, 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, 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 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 shall not be an *ex officio* member, shall constitute a quorum.

(3) The General Manager shall convene a meeting of the Board on request to that effect made by not less than 3 members.

(4) The General Manager 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; and

(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; and

(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 to –

(a) borrow money; or

(b) enter into any transaction in respect of capital expenditure which exceeds 5 million rupees.

[Amended 12/2023 (cio 20/7/2023).]

[S. 12 amended by s. 89 of Act 12 of 2023 w.e.f. 20 July 2023.]

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 an Agreement or otherwise, in such manner and for such purposes as, in its opinion, will best promote the objects of the Authority.

[S. 13 amended by s. 89 of Act 12 of 2023 w.e.f. 20 July 2023.]

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 from liability

(1) No liability, civil or criminal, shall attach to a member or an officer of the Authority in respect of an 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 under it.

(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, grants 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

The Authority shall not, except with the approval of the Minister –

(a) sell or exchange any property or make a donation;

(b) borrow any money it may require for purposes of carrying out its duties.

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; or

(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 assets as the Board may, with the approval of the Minister responsible for the subject 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 by –

(a) a creditor of the Authority, free of charge; or

(b) 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 (*sûreté*) under the Code Civil Mauricien.

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; and

(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 Civil Mauricien, a pledge given under this section shall, to all intents and purposes, be valid as regards the parties to the pledge or any third party.

(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; or

(b) direct the Authority to amend the estimate in respect of any item in such manner as he thinks fit.

25. Fees, rates and charges

(1) Every owner or occupier of property connected to the waste water system shall, unless exempted by the Authority, be liable to pay such waste water fees, charges or rates as may be prescribed.
[Amended 15/22 (cio 2/8/22).]

(2) The Authority may levy on every owner of property connected to the waste water system such connection charges as may be prescribed.

(3) Notwithstanding this Act, every owner or occupier of premises connected to the waste water system who is liable to pay water charges, fees or rates to the Central Water Authority under any enactment shall, unless exempted by the Authority, pay the waste water fees, charges or rates in such manner as may be prescribed under this Act, the Ground Water Act or the Central Water Authority Act.
[Amended 15/22 (cio 2/8/22).]

[S. 25 amended by s. 4 of Act 26 of 2004 w.e.f. 26 August 2004; s. 80 of Act 15 of 2022 w.e.f. 2 August 2022.]

26. Collection and recovery of fees, rates and charges

Fees, rates, charges and other dues accruing to the Authority shall be collected 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; and

(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 upon any banking account kept by the Board shall be signed by any 2 of the following persons –

(a) the Chairperson;

(b) the General Manager;

(c) such other person as may be appointed for that purpose by the Board.

[S. 28 amended by s. 4 of Act 33 of 2003 w.e.f. 13 September 2003.]

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 lay a copy of the report on the Table of the 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; and

(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) Government,

in relation to waste water 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 Government, 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 Government as *garant solidaire* as provided by the Code Civil Mauricien.

(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 instrument 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 waste water services of the Central Water Authority or the Waste Water Authority established by the Waste Water

Authority Act 1991.

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 section 31 or 33.

PART VI – LEGAL PROCEEDINGS

35. Proceedings against 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 advice of delivery.

(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) A summons, notice or other document, including a notice under section 35, required or authorised to be served on the Authority 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; or

(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 waste water system.

(3) No person shall put or allow to be put into any water-closet, trap, gulley or other inlet to the waste water 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 waste water 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.

37A. Prohibition on free disposal of effluent and waste water

(1) Notwithstanding any other provisions of this Act, or any other enactment, no person shall construct or cause to be constructed on his premises any house sewer, treatment plant or effluent disposal system where a public sewer already exists and the connection of the premises to the public sewer is, according to the Authority, technically feasible.

(2) (a) Where a premises has an existing house sewer, treatment plant or effluent disposal system, the Authority may issue a notice to the owner or occupier of the premises requiring him to connect to the public sewer.

(b) A notice shall be issued where the Authority is of the view that the house sewer, treatment plant or effluent disposal system –

(i) is likely to be detrimental to the environment;

(ii) may constitute a source of nuisance; or

(iii) may be injurious to health.

(c) The notice shall be in such form as may be approved by the Authority and shall specify the time limit during which the premises must be connected to the public sewer.

(3) Any person who fails to comply with a notice issued under subsection (2) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees.

(4) The Court may, in addition to the fine specified under subsection (3), order that the premises be connected to the public sewer within such time as the Court may deem fit.

(5) The Court shall notify the Authority of an order made under subsection (4) within a period of 15 days of making the order.

[s. 37A inserted by s. 5 of Act 26 of 2004 w.e.f. 26 August 2004.]

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 waste water 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 waste water 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 a prosecution for an offence.

39. Notice of contravention

(1) Where the Authority has reason to believe that 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 the contravention does not occur or continue, as the case may be.

(2) A 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 a prosecution for an offence.

40. Waste water works

(1) Where the Authority is of the opinion that waste water 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 waste water 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 waste water 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 waste water 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 house sewer, treatment plant or disposal system over property owned or occupied by him, otherwise than in accordance with the designs 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.

(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 time fixed for payment.

44. Restricted use of land where sewers exist

(1) No person shall, without the approval of the Authority –

(a) raise any structure or building on any land where sewers have been laid; or

(b) carry out, on the 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 consider the application, and may refuse or grant the approval, subject to such terms and conditions as it thinks fit to impose.

(4) A 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; and

(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 into 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 on it by the Police Act, intervene to assist the Authority in the service of notices, inspection and entry to premises, in the carrying out of disconnection or waste water 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; and

(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 requirement of a notice served under section 38, 39 or 40; or

(c) refuses entry to an officer or the Authority under section 38, 40, 41, 42 or 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 114 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 subsection (1) or (2) may, in addition to the penalty provided in these subsections, order the convicted person to comply with 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. – 52. –
