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## **Assam Urban Water Supply and Sewerage Board Act, 1985**

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## ACT AND ORDINANCES

### THE ASSAM URBAN WATER SUPPLY AND SEWERAGE BOARD ACT, 1985

#### An Act

To provide for the establishment of an Urban Water Supply and Sewerage Board for the development, maintenance and regulation of the Water Supply, Sewerage and sewage disposal works and for matters connected therewith in the urban areas of the State of Assam.

#### Preamble

Whether it is expedient to provide for the establishment of an Urban Water Supply and Sewerage Board for the development, maintenance and regulation of the Water Supply, Sewerage facilities in the Urban areas in the State of Assam and for matters connected therewith;

## CHAPTER I

### PRELIMINARY

#### Short title, extent and commencement

1. (1) This Act may be called the Assam Urban Water Supply and Sewerage Board Act, 1985.
- (2) It shall extend to all urban areas in Assam but excluding the cantonment areas.
- (3) It shall come into force on such date or dates as the State Government may, by notification, appoint and different dates may be appointed for different areas.

#### Definitions

2. In this Act, unless the context otherwise requires —
  - (1) "Appointed day" in relation to any local areas, means the date of notification relating to that local area under Section 18;
  - (2) "Board" means the Assam Urban Water Supply and Sewerage Board, constituted under Section 4.
  - (3) "Bye-laws" means bye-laws made under this Act.
  - (4) "Chairman" means the Chairman of the Board.
  - (5) "Committee" means any committee appointed under Section 13.
  - (6) "Catchments areas" means all land through or under which any water flows, runs or percolates directly or indirectly into any reservoir erected or used by the Board in connection with water supply or drainage.
  - (7) "Cess pool" includes a settlement tank or other tank for the reception or disposal of fluid foul matter from any premises.
  - (8) "Director" means the Director of the Board and includes the Chairman and the Managing Director;
  - (9) "Drain" includes a sewer, tunnel, pipe, ditch gutter or channel or a cistern, flush-tank, septic tank or other device or carrying off or treating sewage, offensive matter, polluted water, sullage, waste water, rain water or sub-soil water and also includes any culvert, ventilation shall or pipe or other appliance or fitting connected with such drain, and any ejectors, compressed air mains, sealed sewage mains and special machinery or apparatus for raising collecting, expelling or removing sewage or offensive matter from any place;
  - (10) "Drainage" means device for carrying sewage, offensive matter, polluted water, wastewater, rainwater or sub-soil water;
  - (11) "Domestic purposes" supply of water for domestic purposes shall mean supply for any purpose except (i) for trade, manufacture, business, gardens or irrigation; (ii) for building purposes and construction of roads; (iii) for fountains, swimming pools, public baths or tanks or for ornamental or mechanical purposes; (iv) for animals, where they are kept for sale or hire or sale of their produce; (v) for consumption and use at a restaurant or by inmates of a hotel, boarding house or residential club; (vi) for consumption and use by persons resorting to theatres and cinemas; (vii) for watering streets; (viii) for washing vehicles where they are kept for sale or hire;
  - (12) "Government" means the State Government.
  - (13) "House-drain" means any drain of and used for the drainage of, one or more premises.
  - (14) "Local area" means the area falling within the jurisdiction of a Local body;

(15) "Local Authority" means a Municipal Corporation, Municipal Board, Town Committee, Development Authority or any other local authority as specified by the State Government.

(16) "Land" includes (besides land) benefits arising out of land, house and things attached to the earth or permanently fastened to anything attached to the earth and also land covered by water;

(17) "Main" means a pipe laid by the Board for the purpose of giving a general supply of water as distinct from a supply to individual consumers, and includes any appliances and appurtenances used in connection with such a pipe;

(18) "Notification" means a notification published in the official Gazette;

(19) "Occupier" in relation to any premises includes: —

(i) Any person for the time being paying or liable to pay rent or any portion thereof to the owner in respect of these premises;

(ii) An owner who is in occupation of those premises.

(iii) A tenant of those premises who is exempted from payment of rent.

(iv) A licensee who is in occupation of those premises; and

(v) Any persons, who is liable to pay damages to the owner in respect of use and occupation of the premises.

(20) "Owner" in relation to any premises, means the persons who receives the rent of the said premises or who would be entitled to receive the rent thereof, if the premises were let and includes: —

(i) An agent or trustee who receives such rent on account of the owner;

(ii) An agent trustee who receives the rent of, or is entrusted with the management of any premises devoted to religious or charitable purposes;

(iii) A receiver, administrator or manager appointed by any court of competent Jurisdiction to have the charge of or to exercise the rights of an owner of, the said premises; and

(iv) A mortgage-in-possession.

(21) "Premises" means any land or building or part of a building and includes —

(a) The garden, ground and out houses if any appertaining to a building or part of a building; and

(b) Any fittings affixed to a building or part of a building for the more beneficial enjoyment hereof;

(22) "Prescribed" means prescribed by rules;

(23) "Prescribed Authority" means an authority appointed by the State Government by notification in the official Gazette to perform all or any of the functions of the prescribed authority in one or more local areas;

(24) "Private Street", "Public Street" and "Street" in relation to any local area. Have same meanings as in the law relating to the local body having jurisdiction over that local area;

(25) "Rules" means the rules made under this Act'

(26) "Regulation" means the regulation made under this Act;

(27) "Sewerage" means any device for carrying of sewerage, offensive matter, polluted water, wastewater, and rainwater or sub-soil water;

(28) "Scheme" means any scheme relating to the provision of drinking water and collection and disposal of storm and wastewater;

(29) "Sewage" means night-soil and other contents of water-closets latrines, privies, urinals, cesspool or drains and polluted/waste water from sinks, bath-rooms, stables, cattle-sheds and other like places and includes trade effluents and discharges from manufacturing industries of all kinds;

(30) "Sewer" means a closed conduit for carrying sewage, offensive matter, polluted water, and wastewater or sub-soil water laid through, under or upon any street or land whether public or private;

(31) "Sewerage system" means a sewerage system provided by the Board and includes the sewer to which this Act extends and all treatment works, pumps pumping stations and machinery, fittings and things connected therewith and all land acquired held or used by the Board for the purpose of this Act, in relation to sewerage;

(32) "Urban" means and includes the areas declared or included in a municipality or a Municipal Corporation under the provisions of the Assam Corporation under the provisions of the Assam Municipal Act, 1956 (Assam Act. No. XV of 1957) and the Guwahati Municipal Corporation Act. 1969 (Assam Act 1 of 1973) or any other Municipal Corporation Act which may come into force from time to time or any other area to which the services of the Board are extended as specified by the State Government;

(33) "Water Connection" includes: —

(i) A tank, cistern, hydrant, stand pipe, meter or tap situated on any private property and connected with a main or other pipe belonging to the Board; and

(ii) The Water pipe connecting such a tank cistern, hydrant standpipe, meter or tap with such main or pipe.

(34) "Water Works" includes water channel (including stream lakes spring, river or canal), well, pump, reservoir, cistern, tank, duct, whether covered or open, sluice, supply main, culvert, engine, water truck, hydrant, stand pipe conduit and machinery, land, buildings or other thing for supplying or used for supplying water or for protecting source of water supply.

(35) "Year" means the financial year.

(36) The expressions "building", "house-gully", "offensive matter" and any other term used in this Act, shall unless defined here and unless there is anything repugnant in the subject or context, have the same meaning as in the Assam Municipal Act, 1956, and the Guwahati Municipal Corporation Act, 1969 as amended up-to-date.

## CHAPTER II

### CONSTITUTION OF THE BOARD

#### Creation and incorporation of the Board

3. (i) The State Government shall, by notification in the official Gazette, and with effect from a date to be specified herein constitute a Board to be called "The Assam Urban Water Supply and Sewerage Board". The duty of carrying out the provisions of this Act, shall subject to the restriction, conditions, and limitations therein contained be vested in the said Board.

(ii) The Board shall be a body corporate by the said name having perpetual succession and a common seal and shall have power to acquire, hold or dispose of property.

(iii) The Board shall for the purpose of this Act be deemed to be a local authority.

(iv) The Board shall have its head office at Guwahati and may have offices at such other places, as it may consider necessary.

(v) The conduct of business of the Board shall be regulated by such rules as may be framed by the Government from time to time.

#### Constitution of the Board

4. (1) (a) The Board shall consist of a Chairman, who shall be the Minister-in-charge of the Department.

(b) There shall be a Vice-Chairman with the status of a Director to be appointed by the State Government, besides the Director specified under sub-section (2).

(2) The Directors other than the Chairman and the Vice-Chairman shall be as follows, namely: —

(a) A Managing Director to be appointed by the State Government.

(b) Secretary to the Government of Assam, Municipal Administration Department (ex-officio).

(c) Secretary to the Government of Assam, Finance Department (ex-officio).

(d) Director, Municipal Administration, Assam (ex-officio).

(e) Town Planner, Government of Assam (ex-officio).

(f) Chief Public Health Engineer, Assam (ex-officio).

(g) Chief Engineer, P.W.D. (Roads) (ex-officio).

(h) Commissioner, Guwahati Municipal Corporation (ex-officio).

(i), (j), (k) Three elected Mayor/Chairman of the Urban Local Authorities to be appointed by the Government.

(l), (m), (n) Three other persons to be nominated by the State Government.

(3) The appointment of the Vice-Chairman, the Managing Director and other Directors, shall be made by the Government and notified in the official Gazette.

(4) A Director referred to in clause (b) and (c) of sub-section (2) may, instead of attending a meeting of the Board himself, depute an officer not below the rank of Deputy Secretary, to attend the meeting. The officer so deputed shall have the right to take part in the proceeding of the meeting and shall also have the right to vote.

(5) The Vice-Chairman and the Managing Director shall possess the prescribed qualifications.

(6) The Managing Director shall be the Chief Executive of the Board and be a whole time officer to be appointed by the State Government and shall possess such qualifications as may be prescribed by the State Government.

#### Term of office and condition of service of the Directors

5. (1) All Directors including the Vice-Chairman and the Managing Director shall hold office during the pleasure of the Government.

(2) The Managing Director of the Board shall hold office for three years unless his term is determined earlier by State Government by notification in the official Gazette, and shall be eligible for re-appointment.

(3) The person appointed as Directors under clause (i), (j), (k), (l), (m), (n) of sub-section (2) of Section 4 shall, unless his term is determined earlier by State Government, hold office for a period of 3 years or until the expiry of his term of office as elected head of the local body concerned, whichever is earlier, but shall be eligible for re-appointment.

(4) Any Director may be writing, addressed to the Government resign his office and such resignation takes effect when accepted by Government.

(5) The conditions of the service of the Directors shall be such as may be prescribed.

(6) Any vacancy in the office the Directors may be filled by the Government by appointing a person possessing the appropriate qualification specified in Section 4.

### **Disqualification for appointment as Director of the Board**

6. (1) A person shall be disqualified for being appointed as, and for being, a Director of the Board, if he, —
- (a) Has been sentenced for any offence involving moral turpitude, such sentence not having been reserved;
  - (b) Is an undischarged insolvent;
  - (c) Is of unsound mind;
  - (d) Is an officer or servant of the Board;
  - (e) Has directly or indirectly, by himself or by any partner, employer or employee, any share or interest in any contract or employment with, by or on behalf of, the Board;
  - (f) Is a Director or a Secretary, Manager or other Officer of any incorporated company, which has any share or interest in any contract or employment with, by or on behalf of the Board?
  - (g) A person shall not be disqualified under clause (e) or clause (f) of sub-section (1) or be deemed to have any share or interest in any contract or employment within the meaning of those clauses, by reasons only of his or the incorporated company of which he is a Director, Secretary, Manager or the Officer, having a share or interest in, —
  - (i) Any sale, purchase, lease or exchange of immovable property or any agreement for the same;
  - (ii) Any agreement for the loan of money or any security for the payment of money only.
  - (iii) Any newspaper in which any advertisement relating to the affairs of the Board is inserted;
  - (iv) The occasional sale to the Board, if the sum paid as consideration does not exceed two thousand rupees in any year, of any article in which he or the incorporated company regularly trades.
- (3) A person shall not also be disqualified under clause (e) or clause (f) of sub-section (1) or be deemed to have any chair or interest in any incorporated company, which has any share, or interest in any contract or employment with, by, or on behalf of the Board, by reason only of his being a share holder of such company:

Provided that such person discloses to the Government the nature and extent of the shares held by him.

**Explanation** – For the purposes of clause (d) of sub-section (1) the Chairman or the Managing Director or any Director shall not be deemed to be an officer or employees of the Board.

### **Removal of the Vice-Chairman and other non-official Directors**

7. (1) If at any time it appears to the Government that the Vice-Chairman has shown himself to be unsuitable for his office, or has been guilty of any misconduct or neglect which renders his removal expedient, it shall by notification remove him from office after giving him a reasonable opportunity of showing cause.
- (2) The Government may, by notification, remove any non-official Director from office after giving him a reasonable opportunity of showing cause, —
- (a) If he has, without the permission of the Board, been absent in three consecutive meetings reckoned from the date of the commencement of his term of office, or of the last meeting, which he attended as the case may be;
  - (b) If he, being a legal practitioner, acts or appears on behalf of any person other than the Board in any civil, criminal or other legal proceedings in which the Board is interested, either as a party or otherwise; or
  - (c) If he, in the opinion of the Government, is unsuitable or has become incapable of acting as a Director or has so abused his position as a Director as to render his continuance as such Director detrimental to public interest.
- (3) A non-official Director removed under any of the provisions of clauses (a) and (b) of sub-section (2) shall unless otherwise directed by the Government as disqualified for appointment as a Director for a period of three years from the date of his removal.
- (4) A non-official Director removed under clause (c) of sub-section (2) shall not be eligible for re-appointment until he is declared by an order of the Government to be no longer in eligible.

## **CHAPTER III**

### **OFFICERS AND MEMBERS OF THE STAFF OF THE BOARD**

#### **Appointment of Secretary, Chief Engineer, Chief Accounts Officer and other Officers and employees of the Board**

8. The Board may appoint a Secretary, a Chief Engineer, an Accounts Officer and such other officers and employees as, it considers necessary for the efficient performance of its functions:

Provided that the appointment of the Secretary, Chief Engineer and the Chief Accounts Officer shall be made with the previous approval of the Government:

Provided further that in case of emergency, —

- (a) The Managing Director may appoint, temporarily for a period not exceeding three months such Officers or Employees as may, in his opinion, be required for the purposes of this Act, and the employment of whom for any particular work had not been prohibited by any resolution of the Board; and
- (b) Every appointment made under clause (a) shall be reported by the Managing Director to the Board at the next meeting.

### **Maintaining Schedule of establishment**

9. (1) The Board shall prepare and maintain a schedule of establishment showing the number, designation and grades of the officers and Employees (other than the employees who are paid by the day or whose pay is charged to temporary works), whom it considers necessary and proper to employ for the purpose, of this Act, and also the amount of the nature of the salary, fees and allowances to be paid to each such Officer or employee.

(2) The Schedule referred to in sub-section (1) shall be revised every year before the first May of that year and shall contain the particulars maintained in that sub-section, of the Officers and employees of the Board, employed on the 31<sup>st</sup> March, immediately preceding.

### **Control by the Managing Director**

10. Subject to such regulations as may be framed by the Board, the Managing Director shall exercise supervision and control over the Acts and proceedings of all the Officers and employees of the Board.

## **CHAPTER IV**

### **CONDUCT AND BUSINESS OF THE BOARD**

#### **Meeting of the Board**

11. (1) The Board shall meet at such times and places and shall, subject to the provisions of sub-sections (2) and (3) observe such rules of procedure in regard to transaction of business at its meeting including the quorum at meetings as may be prescribed by regulations:

Provided that the Board shall meet at least once in three months.

(2) The Chairman or in this absence the Vice-Chairman or in absence of both any other Director, elected by simple majority votes of the Directors present and voting, shall preside at a meeting of the Board.

(3) All questions at any meetings of the Board shall be decided by a majority of the votes of the Directors present and voting and in the case of an equality of votes the Chairman, Vice-Chairman or in their absence the elected Chairman Presiding, shall have and exercise a second or casting vote.

#### **Temporary association of persons with Board for particular purposes**

12. (1) The Board may associate with itself in such manner and for such purposes as may be determined by regulations, any person whose assistance or advice it may desire in performing any of its functions under this Act:

Provided that the number of persons so associated shall not be more than four.

(2) The Board may invite any person to offer his views on any subject discussed at any meeting of the Board.

(3) A person associated with the Board under sub-section (1) or invited for any discussion under sub-section (2) for any purposes shall have the right to take part in the discussions of the Board relevant to that purpose, but shall not have the right to vote at a meeting of the Board.

#### **Appointment and function of committees**

13. (1) The Board may from time to time, appoint committees consisting of such number of persons as it may think fit, for the purpose of discharging such duties or performing such functions and on such terms and conditions as may be prescribed by regulations.

(2) The Chairman, the Vice-Chairman or such other Director as the Chairman may nominate in this behalf shall be the president of the committee and the committee shall observe such rules of procedure in regard to transaction of business at its meetings as may be prescribed by regulations.

(3) All proceedings of the committee shall be subject to confirmation by the Board.

#### **Acts of Board not to be invalidated by informality or Vacancy**

14. No Act done or proceedings taken under this Act by the Board or any Committee shall be invalidated merely on the ground —

(a) Of any vacancy or defect in the constitution of the Board or the Committee; or

(b) Of any defect or irregularity in the appointment of a person acting as a Director thereof; or

(c) Of any defect or irregularity in such Act or proceeding not affecting the merits of the case.

## **CHAPTER V**

### **FUNCTIONS AND POWERS OF THE BOARD**

#### **Functions of the Boards**

15. The function of the Board shall be the following namely: —

(1) The promotion and operation of schemes for —

(i) Supply of Water;

(ii) Sewerage;

(iii) Sewage treatment and its disposal;

(iv) Storm Water drainage.

(2) Functions connected with or incidental to the functions mentioned in clause (1).

(3) Any other functions entrusted to the Board by the State Government or a Local Authority:

Provided that the Board shall perform only such of the above functions as are notified from time to time in the Official Gazette.

### **Power of the Board**

16. (1) The Board, shall, subject to the provisions of this Act, have power to do such things which may be necessary or expedient for performing the function under this Act.

(2) Without prejudice to the generality of the foregoing provision, such power shall include the power —

(i) To take over all the existing responsibilities, powers, controls, facilities, services and administration within the urban area to which this Act applies, from the local bodies having jurisdiction over such areas relating to water supply, sewerage and sewage disposal and to manage them so as to provide the people of those areas whole some water, efficient sewerage and storm drainage services.

(ii) To extend, expand and develop the existing facilities and to provide, maintain and operate facilities for supply of water and for providing sewerage and storm drainage services in urban areas in consultation with the local bodies;

(iv) To establish in service training course and provide other training for its personnel;

(v) To investigate, plan and prepare schemes for water supply, sewerage and storm drainage services in urban areas in consultation with the local authorities and carry out their execution;

(vi) To regulate the drilling of tube-wells, public or private and to control the drawal of underground water in notified urban areas;

(vii) To enter into contract or arrangement with any person as the Board may deem necessary for performing its functions under this Act;

(viii) To determine levy and collect fees and charges;

(ix) To borrow money, issue debentures and manage its own funds; and

(x) To incur expenditure and to grant loans and advances to such persons or authorities as the Board may deem necessary for performing its functions under this Act;

(xi) To entrust execution and maintenance of works to any local authority.

### **Power of the Board to undertake execution of schemes at the instance of others**

17. (1) The Board may undertake the execution or further execution of any scheme or work of water supply, sewerage or storm drainage on behalf of any local body, central or State Government Departments, Statutory bodies, Public or Private undertakings etc., whose water supply, sewerage and storm drainage services have not vested in and stood transferred to the Board under sub-section (1) of Section 18 on such terms and conditions as may be agreed upon between such other party and the Board.

(2) The Board for the purpose of removing any difficulty particularly in relation to the provisions of the Act or any difficulty in respect of proper functioning of the Board may approach State Government from time to time for such help as deemed necessary for removal of difficulties and difference.

## **CHAPTER VI**

### **VESTING OF EXISTING WATER SUPPLY AND SEWERAGE SERVICES**

#### **Transfer of existing Services from Local Bodies to Board**

18. (1) The State Government may, for public purposes by notification in the official Gazette, declare in respect of any Urban area that as from a date to be specified therein —

(i) All the existing water supply and sewerage services sewage works and sewage firms, including all plants, machineries, water works, pumping stations, filter beds, water mains and public sewers in along, over or under any public street, and all buildings and other works, materials, stores and things appertaining thereto, belonging to or vested in any local body and/or under execution and/or maintenance by the State Public Health Engineering Organisation for and on behalf of the local body concerned.

(ii) So much of the sub-soil appertaining to the said water mains and sewers as may be necessary for the purpose of enlarging, deepening or otherwise repairing or maintaining any such water mains and sewers or any pipes and other appliances and fittings connected with such water supply and sewerage services and sewage works and sewage firms, and

(iii) All rights, liabilities and obligations relating to the things mentioned in clauses (i) and (ii) including the right to recover arrears of water tax and sewerage tax and of any cost or fees relating to water supply and sewerage services, and also including liabilities arising from any loans advanced by the State Government to any local body for the things aforesaid other than loans diverted to or utilised for other purposes shall vest in and stand transferred to the Board and be subject to its control.

(2) Where any doubt or dispute arises as to whether any property, interest or asset has vested in the Board under sub-section (1) or any rights, liabilities or obligations have become the rights, liabilities or obligations of the Board under this section or under Section 19, such doubt or dispute shall be referred to the State Government in connection with the concerned departments whose decision shall be final and binding on the Board and the Local Body or the Public Health Engineering Organisations as the case may be.



### **Board to assume obligations of local authority in respect of matters to which this Act applies**

19. All debts and obligations incurred, all contracts entered into, all matters and things engaged to be done by with or for any urban local body in respect of any of the functions specified in Section 15 before the appointed day, shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Board, and all suits or other legal proceedings instituted or which might, but for the issue of the notification under sub-section (1) of Section 18 have been instituted by or against the Urban Local Body or Public Health Engineering Organisation, may be continued or instituted by or against the Board.

## **CHAPTER VII**

### **TRANSFER OF ASSETS AND LIABILITIES OF THE PUBLIC HEALTH ENGINEERING ORGANISATION AND THE URBAN LOCAL BODIES TO THE BOARD**

20. All the assets and liabilities of the Public Health Engineering Organisation of the State Government and of the Urban Local Bodies in relation to any urban area, except the assets and liabilities which the Government may be general or special order, specify in this behalf, shall subject to such directions as they may specify in such order, vest in the board.

#### **Transfer of property to the Board**

21. (1) The State Government may transfer to the Board any building, land or other property movable or immovable, for the use of, and management by the Board on such conditions and subject to such limitations as may be imposed by the Government.

(2) If a any question arises as to the grant of compensation to the urban local bodies consequent upon the taking over of their existing water supply, sewerage services, sewage work and sewage farms under Section 18 then an amount not exceeding rupee one shall be payable.

#### **Transfer of employees**

22. (1) Save as otherwise provided in Section 8, persons who were either employed in the Public Health Engineering Organisation of Government of Assam or under a local body, exclusively in connection with urban Water Supply or sewerage services or sewage works or sewage farms, shall from the appointed day (hereinafter in this section referred to as the said date), be transferred to the Board and they shall hold their offices or services therein by the same terms at the same remuneration, and upon the same other terms and conditions and with the same rights and privileges as to pension, gratuity and other matters as they would have held the same on the said day if this Act had not come into force or, as the case may be, the aforesaid water supply and sewerage service, sewage works and sewage farms had not been transferred to and vested in the Board, and shall continue to do so until their employment in the Board, is terminated or until their remuneration or other terms conditions of services are revised and altered by the Board under or in pursuance of any by law or under any rule made in this behalf under section 115, 116 of this Act:

Provided that a permanent employee of the State Government, whose services have been transferred to the Board, shall hold lien under the State Government and the period spent in the services of the Board shall be reckoned for increment, pension, and other terms and conditions of the State Government rules in the event of his returning back to the State Government service.

(2) Every officer or employee of the State Government whose services have been transferred to the Board, shall intimate the State Government in writing within two years from the date of transfer of his services to the Board —

(i) That he may be permitted to retire from service and thereupon he shall be permitted to retire from Government service and he will be entitled to compensation pension, gratuity and any other benefits permissible to him to the maximum possible limit under the rules; or

(ii) That he should be absorbed substantively in the service of the Board and then the Board will absorb him substantively in service and thereupon the services rendered by him under the State Government shall be treated as services rendered under the Board and he shall be entitled to have such rights or to such similar rights in the changed situation with regard to remuneration, leave and pension as will not be less favourable to the service conditions, agreements and rights as he would have been entitled to before he was employed in the Board, or

(iii) That he may be permitted to revert to the Government service and he will be allowed to do so on the same terms and conditions as were applicable just before his services were transferred to the Board and he will be deemed to have remained always in the Government service under the same terms and conditions.

(3) If any Officer or employees do not give such intimation within the above-specified period it will be deemed that he was opted for being absorbed substantively in the service of the Board under the terms and conditions specified by it.

(4) Notwithstanding anything contained in sub-section (1), but subject to any express agreement to the contrary, any person referred to therein, other than a workman as defined in the Industrial Disputes Act, 1947 (Act. XIV of 1947) who becomes an employee of the Board shall be liable to be transferred from any establishment or undertaking in which he was employed immediately before the said date to any other establishment or undertaking belonging to the Board on the same remuneration and on the same terms and conditions as governed him immediately before such transfer.

(5) If any question arises as to whether any person was exclusively employed in connection with the aforesaid water supply and sewerage services sewage works and sewage farms under a local body immediately before the said date, it shall be decided by the State Government and the decision of the State Government shall be final.

(6) The sums standing to the credit of the employees referred to in sub-section (1) in any pension fund, provident fund, gratuity fund or other like fund constituted for them shall be transferred by the State Government or the local body concerned, as the case may be, to the Board along with any accumulated interest due till the said date and with the accounts relating to such fund and the Board shall be the exclusion of the State Government and of any local body, be liable for payment of pension, provident fund gratuity or other like dues as may be payable to such employees at the appropriate time in accordance with the conditions of their service.

(7) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (Act XIV of 1947) or in any other law for the time being in force the transfer of any employee to the Board under sub-section (1) shall not entitle any such employee



to any compensation under that Act or such other law and no such claim shall be entertained by any court, tribunal or authority.

(8) Every permanent or temporary employee of the Public Health Engineering Organisation of the State Government or of a local body becoming an employee of the Board under sub-section (1) shall on and from the said date, be a permanent or temporary employee of the Board, as the case may be, against a permanent or temporary post, which shall stand created in the establishment of the Board with effect from the said date.

(9) Any employee referred to in the proviso to sub-section (1) shall be deemed to have continued to be in the service of the State Government or the local body concerned, as the case may be, between the said date and the date of abolition of the posts under sub-section (2) but the State Government or the local body, as the case may be, shall be entitled to reimbursement of the remuneration paid by it to such employee for that period and also of the compensation referred to in the second proviso to that sub-section.

## **CHAPTER VIII**

### **PROPERTY CONTRACT FINANCE ACCOUNT AND AUDIT**

#### **Power to acquire land Execution and Registration of contracts etc.**

23. (1) Every contract or assurance of property on behalf of the Board shall be in writing and executed by such authority and in such manner as may be determined by the Board

(2) Notwithstanding anything contained in the Indian Registration Act, 1908 (Act. XIV of 1908) it shall not be necessary for the Secretary or any other Officer of the Board to execute on behalf of the Board any agreement or other instrument to appear in person or by agent at any registration office in any proceedings connected with the registration office in any proceedings connected with the registration of any such agreement of instrument or to sign as provided in Section 58 of that Act:

Provided that the Registering Office to whom such instrument is presented may, if he thinks fit, refer to the Secretary or such other officer for information regarding the same and shall, on being satisfied of the execution thereof, register the instrument.

#### **Board's Fund**

24. (1) The Board shall have its own fund which shall be deemed to be a local fund and to which shall be credited all moneys received by or on behalf of the Board.

(2) The Budgetary provisions hitherto being made in the State Budget in the Public Health Engineering Organisation, Urban Development Department such as Municipal Administration Department and Town and Country Planning Department for construction and maintenance of Urban Water Supply, Sewerage and Drainage, shall continue to be provided in the budget for the current financial year and the amounts of these provisions as may be considered necessary by the State Government shall be transferred to the Board's fund on such terms and conditions as may be decided by the State Government.

(3) The expenditure on the Board will be debited to a new sub-head of Account "Water Supply and Sewerage Board" to be opened under "284 Urban Development – A General (1) II-Other State Plan Schemes and Non-Plan I-A-Direction and Administration-General Administration (a) Directorate of Municipal Administration" by the Government.

(4) Except as otherwise directed by the State Government, all moneys belonging to the Boards fund shall be deposited either in the State Bank of India or in such other Scheduled Bank, or invested in such securities, as may be approved by the State Government.

#### **Registration on Unbudgeted Expenditure**

25. (1) Save as where in the opinion of the Board Circumstances of extreme urgency have arisen, no sum exceeding five lakhs of rupees on account of recurring expenditure or exceeding fifteen lakhs of rupees on account of non-recurring expenditure shall be spent by the Board in any financial year unless such sum has been included in a statement submitted under sub-section (1) of Section 39.

(2) Where any such sum is spent in circumstance of extreme urgency a report thereon, indicating the source from which it is proposed to meet the expenditure shall be made as soon as practicable to the Government.

#### **General principles for Board's Finance**

26. (1) The Board shall, as far as practicable carry on its operations under this Act on sound Commercial principles, or "Non-profit no-loss basis" and shall adjust its rates of charges accordingly:

Provided that where necessary any amount due for meeting the operating, maintenance and management expenses of the Board for purposes of clause (i) and (ii) of Section 21 may: to such extent as may be sanctioned by the State Government, be paid out of the Board's fund.

(2) The taxes, fees and charges authorised to be imposed under this Act shall be sufficient to enable the Board to cover the following:

- (i) Operating expenses,
- (ii) Maintenance,
- (iii) Taxes payable by the Board,
- (iv) Depreciation.
- (v) Interest repayment.

(vi) Amounts required for the repayment of long-term loan to the extent that such repayments shall exceed the provision for depreciation, and

(vii) Adequate allocation to reserves.

### **Subventions to be Board**

27. The State Government may from time to time make subventions to the Board for the purposes of this Act on such terms and condition as the State Government may determine.

### **Loans to the Board**

28. The State Government may from time to time advance loans to the Board on such terms and conditions not inconsistent with the provisions of this Act as the State Government may determine.

### **Power of the Board to borrow and land**

29. Subject to the provisions of this Act and the Rules made thereunder and subject to such conditions as may be specified by the Government by a general or special order issued in this behalf, the Board may, from time to time, borrow money required for the purposes of this Act in any one or more of the manners specified below under Local Authorities Loans Act, 1914 (Central Act IX of 1914) —

(i) Raising of loans from Bank or other financial institutions or the Life Insurance Corporation establish under Section 3 of the Life Insurance Corporation Act, 1956 (Central Act 31 of 1956); or

(ii) Raising loans from any Corporation owned or controlled by the Central or State Government; or

(iii) Raising loans from the public by issue of bonds or debentures or stocks or otherwise in the form and manner approved by the Government.

### **Guarantee by the Government of Loans**

30. The Government may guarantee in such manner as they think fit, the payment of the principal and interest of any loan proposed to be raised by the Board in regard to the investigation, preparation or execution of schemes made under this Act.

### **Form, Signature, Exchange, Transfer and Effect of Debentures**

31. (1) whenever money is borrowed by the Board on debentures, the debentures shall be in such form as the Board may, with the previous sanction of the State Government specify.

(2) All debentures shall be signed by the Managing Director or Secretary or by any one of the Official Directors of the Board.

(3) The holder of any debenture in any form specified under sub-section (1) may obtain in exchange therefore a debenture in any other form specified in the manner provided in sub-section (1) and upon such terms as the Board may determine.

(4) Every debentures issued by the Board shall be transferable by endorsement, unless some other mode of transfer is specified therein.

(5) All coupons attached to the debentures issued by the Board shall bear the signature of the Managing Director and such signature may be engraved, lithographed or impressed by any mechanical process.

### **Priorities of Liabilities of the Board**

32. The revenue of the Board shall, after meeting the operating, maintenance and management expenses, be applied as far as they are available, in the following order, namely: —

(i) the repayment of principal and interest on bonds in respect of which no guarantee has been given by the State Government;

(ii) The repayment of principal and interest on stock not so guaranteed;

(iii) Credits to depreciation reserve under Section 33;

(iv) The repayment of Principal and interest on bonds guaranteed by the State Government;

(v) The repayment of principal and interest on stock so guaranteed;

(vi) The repayment of principal and interest on sums paid by the State Government under guarantees;

(vii) The repayment of principal and interest on loans advanced to the Board under Section 28, including arrears of such interest;

(viii) The written down amounts paid from capital under the proviso to Section 26;

(ix) The written down amounts in respect of tangible assets to the extent to which they are actually appropriated in any year for the purposes in the books of the Board;

(x) The contribution to general reserve of an amount not exceeding one per cent per annum of the original cost of fixed assets employed by the Board: however, that the total standing to the credit of such reserve, shall not exceed eight per cent of the original cost of such fixed assets;

(ix) The reduction of rates of taxes and charges under this Act or for any of the functions of the Board, as the Board may think fit.

### **Depreciation Reserve**

33. (1) The Board shall create a depreciation reserve and as far as in compliance with the provisions of Section 32 markets it practicable, shall at end of every financial year, credit to such reserve from its revenue, such amounts in respect of each of its assets as would, if made annually throughout the period relative to that assets specified in the schedule and accumulated at compound interest at the rate of four per cent per annum, produced by the end of the said period at amount equal to ninety five per cent of the original cost of that asset.

(2) The amount to be credited every year to the depreciation reserve shall consist of the deposit under sub-section (1) plus interest on the accumulated balance in the reserve.

(3) The contribution in respect of any asset to the depreciation reserve under this section shall cease at the end of the said period or where the asset ceases to be used by the Board, whichever is earlier.

(4) If in any financial year it is not practicable fully to comply with the provisions of sub-section (1), the amount by which the sums actually credited falls short of the amount required under that sub-section in respect of that year shall be carried forward and together with the compound interest thereon at the aforesaid rates shall be credited to the said reserve as soon as it is found possible in accordance with Section 32 so to do.

### **Estimate of Income and Expenditure of the Board to be laid annually and considered before the Board**

34. (1) The Chairman shall at a special meeting held in the month of February in each year lay before the Board an estimate of the income and expenditure of the Board for the next financial year.

(2) Every such estimate shall make provision for the due fulfilment of all the liabilities of the Board, and for the efficient Administration of the Act.

(3) Every such estimate shall differentiate Capital and revenue funds and shall be prepared in such forms and shall contain such details, as the Board may, from time to time, specify.

(4) Every such estimate shall be compiled and a copy thereof sent, by post or otherwise, to each Director at least 10 clear days before the date of the meeting at which the estimate is to be laid before the Board.

(5) A revised estimate, if any including all the expenditure not covered in the original budget estimate shall be laid before the Board at a special meeting to be held in the month of December, in each year.

(6) The Board shall consider every estimate so laid before it and shall sanction the same, either without modification or with such modifications as it may think fit.

### **Approval of Government to Estimates**

35. (1) Every such estimate, as sanctioned by the Board, shall be submitted to the State Government who may, at any time within three months after receipt of the same:

(i) Approve the estimate, or

(ii) Disallow the estimate or any portion thereof, and return the estimate to the Board for amendment.

(2) If any estimate is so returned to the Board, is shall forthwith proceed to amend it and re-submit the estimate as amended to the State Government who may then approve it.

### **Supplementary estimate**

36. (1) The Board may, at any time, during the year for which any estimate has been sanctioned, cause a supplementary estimate to be prepared and laid before it at a special meeting.

(2) The provisions of sub-sections (3), (4) and (6) of Section 34 and of Section 35 shall apply to every supplementary estimate.

### **Repayment of Loans by the Board**

37. Every loan taken by the Board shall be repaid by the Board within the period agreed upon by the Board by such of the following methods as may be approved by the State Government, namely: —

(i) By payment from a sinking fund established under Section 38 in respect of the loan;

(ii) By payment in equal yearly or half-yearly instalments of principal or of principal and interest, throughout the said period;

(iii) By payment from money borrowed for purpose.

(iv) By payment partly from the sinking fund established under Section 38 in respect of the loan and partly from money borrowed for the purpose; or

(v) By payment form any other source, with the prior permission of the State Government.

### **Establishment and Maintenance of Sinking and other Funds**

38. The Board may constitute a sinking Fund a depreciation reserve fund and a development fund in such manner and in such from as may be prescribed by rules or bylaws. The moneys of such funds shall be invested in such manner as may be determined by the Board with the approval of the Government.

### **Annual Reports, Statistics and Returns**

39. (1) The Board shall as soon as may be after the end of each year, prepare and submit to the State Government before such date and in such form as may be prescribed, a report giving an account of its activities during the previous

year and the report shall also give an account of the activities, if any, which are likely to be undertaken by the Board in the next year, and the Government shall cause every such report to be laid before the State Legislature as soon as may be after it is received by the Government.

(2) The Board shall furnish to the Government at such times and in such form and manner as may be prescribed or as the State Government may direct such statistics and returns and such particulars in regard to any proposed or existing schemes as the Government may from time to time require.

#### **Accounts and Audit**

40. (1) The accounts of the Board shall be maintained in such manner and in such form as may be prescribed.

The Board shall prepare an annual statement of accounts in such form as may be prescribed.

(2) The accounts of the Board shall be audited either by the Examiner of Local Accounts or by such Audit Authority as the State Government may direct.

(3) The auditor shall in connection with such audit have such rights, privileges and authority as may be prescribed and in particular, the right to demand the production of books, accounts, connected vouchers and other documents and to inspect any of the offices of the Board.

(4) The Secretary shall cause the report of the auditor to be printed and forward a printed copy thereof to each Director and shall bring such report before the Board for consideration at its next meeting.

(5) The Board shall remedy, forthwith, any defects or irregularities that may be pointed out by the auditor and submit a report thereon to the Government.

#### **Remuneration of Auditor**

41. The Board shall pay to the said auditor such remuneration as the Government may direct.

#### **Accounts and Audit Report to be forwarded to the Government**

42. The accounts of the Board as certified by the auditor, together with the audit report, thereon, shall be forwarded annually to the Government and the Government may issue such instructions to the Board in respect thereof as they deem fit and the Board shall comply with such instructions.

#### **Power to write off irrecoverable amount**

43. If in the opinion of the Board, any amount under a contract or otherwise, is considered irrecoverable, the Board may refer the matter recommending writing off such amount to the State Government. If the State Government after going through the papers and the recommendations so made by the Board, is of the opinion that such amount cannot be recovered, it may approve the writing off of such amount.

#### **Imposition of Taxes, Fees and Charges**

44. (1) In addition to the charges and fees authorised elsewhere in this Act, the Board may impose any one or more of the following charges and taxes, namely: —

(a) A water-charge based on consumption, subject to a minimum charge, which may be at different rates for water supplied for different purpose, such as domestic, industrial and other purposes;

(b) A surcharge on water charge for sewerage;

(c) A graduated tax, which may be at rates different for different areas, on the annual valuation of all lands and buildings within the urban area, which shall not exceed: —

(i) 5 per cent, on the annual valuation-where the annual valuation does not exceed one thousand rupees;

(ii) 7½ per cent, on the annual valuation-where the annual valuation exceeds one thousand rupees, but does not exceed five thousand rupees;

(iii) 10 per cent, on the annual valuation-where the annual valuation exceeds five thousand rupees but not exceeds ten thousand rupees;

(iv) 15 per cent, on the annual valuation where the annual valuation exceeds ten thousand rupees.

(2) The rates of water-charge, surcharge and tax referred to in sub-section (1) shall be fixed annually and shall be notified to the public in such manner as may be provided by regulations.

#### **Amount of Tax, how to be fixed**

45. (1) For the purpose of assessment of tax referred to in sub-section (1) of Section 44, the annual value shall be, —

(a) In respect of any land or building lying within the jurisdiction of a Municipal Corporation, or Municipal Board or Town Committee, the annual value as assessed by or for such Corporation, Municipality or Town Committee and prevailing for the time being, and

(b) In respect of any other land or building the gross annual rent at which the land or building might at the time of assessment be reasonably expected to let from year to year, less, in the case of a building, an allowance of ten per cent for the cost of repairs and for all other expenses necessary to maintain the building in a state to command such gross rent.

(2) If the gross annual rent under clause (b) of sub-section (1) of any land or building not ordinarily 1<sup>st</sup> cannot be easily estimated, then —

(i) In the case of such land, the gross annual rent shall be deemed to be five per cent of the estimated present value of such land, and

(ii) In the case of such buildings, the gross annual rent shall be deemed to be five per cent of the value of the building obtained by adding the estimated cost of creating the building at the time of assessment less a reasonable amount to be deducted on account of depreciation, if any, to the estimated present market value of the land with the building as part of the same premises.

#### **Determination of annual value of any land or building not within a Municipal area**

46. The annual value under clause (b) of sub-section (1) of Section 45 shall be determined by the Managing Director or such other officer or officers authorised by him in this behalf, in such manner as may be prescribed. Such determination of annual value shall be final subject to appeal as herein under provided.

#### **Local and public Authorities to pay for supply of water**

47. All street hydrants including fire hydrants if any, within the jurisdiction of any local or public authority and all places or public resort under the control of such local or public authority shall be supplied with water charges for which shall be payable by the local or public authority as the case may be. Such charges shall be determined in the manner laid down in Section 48.

#### **Calculation of charges for water Supply**

48. (1) For calculating the amount payable by the owner of any premises for consumption of water, the Board may determine the quantity consumed on the basis of readings recorded by a meter attached to the premises.

(2) Until metres can be attached to any premises, the Board may, in such manner as may be provided by regulations, determine the average consumption of water on the basis of the pressure of water supply, the number and size of water taps and the size of ferrules, if any, used in the premises, and may determine the amount payable on the basis of such average consumption.

(3) For calculating the amount payable by a local or public authority for consumption of water,

(i) In any place public resort, the quantity of water consumed may be determined in the manner specified in sub-sections (1) and (2), and

(ii) Through street hydrants and fire hydrants within its jurisdiction, the quantity of water consumed may, in such manner as be provided by regulations, be determined by the Board on the basis of the number of such hydrants, the pressure of water supply and the diameter and size of pipes and fittings connecting the hydrants with the mains of the Board.

(4) Meters shall be installed and owned by the Board and cost thereof shall be paid out of the fund of the Board:

Provided, however, that the Board may realise for the meters such charges as it may from time to time specify by regulations.

**Explanation.** – In this section the expression “Owner” includes an occupier where the premises or any part of it is in the occupation of such occupier and a separate water supply connection stands in his name.

#### **Charge for Sewerage service only in certain cases**

49. If the owner of any premises having independent source of water supply is allowed by the Board to take sewerage service only, he shall be liable to pay for such service such amount as would be payable as surcharge calculated on the basis of water consumed from his independent source, the same being deemed to be water supplied by the Board. The authority shall determine the quantity for water so consumed by affixing meters for such periods and at such places, as it may deem proper:

Provided that no such amount shall be payable by the owner of any premises, solely used for residential purpose, having not more than one tube well of diameter not exceeding four centimetres or one ring-well as independent source of water supply, if specifically exempted by the Board.

#### **Presumption as to correctness of meters**

50. The readings of meters indicating the quantity of consumption of water shall be presumed to be correct unless the contrary is proved.

#### **Requisition of Services of Local Authorities for certain purposes**

51. (1) Subject to the previous approval of the State Government, the Board may require a local authority to perform specified functions on behalf of the Board in connection with the collection of taxes, charges, surcharges or fees imposed under this Act.

(2) The manner in which such functions shall be performed, the procedure to be followed in connection therewith, the manner by which the local authority shall account to the Board, the time and manner of payment to the Board of the amounts collected, and the provision of credits or allowances, if any, to the local authority to cover its administrative costs shall be such as may be prescribed.

(3) For the purpose of facilitating and enforcing collections by the local authority under this section, the Board or the Managing Director, as the case may be, may delegate to the local authority or may of its officers all or any of the powers granted in this behalf in this Act or into regulations to the Board or the Managing Director, and in such event the relevant provision of this Act or the regulations shall apply mutatis mutandis to the local authority and its officers.

#### **Realisation of taxes, fees and charges and recovery of arrears thereof**

52. (1) The Board shall by regulations specify the time, place and manner of payment of the taxes, fees, charges and surcharges payable under this Act.

(2) Interest at 6 per cent per annum shall be payable on all taxes fees, charges and surcharges remaining unpaid after due dates.

(3) The taxes, fees, charges and surcharge due from any person in respect of any premises on account of supply of water and other services rendered by the Board together with interest, if any, payable thereon shall subject to the prior payment of land-revenue, if any, due to the Government thereon and of Municipal rates, if any, due to any Municipal Corporation, Municipal, Board or Town Committee, as the case may be, be a first charge on the land and buildings comprised in the premises, and upon the movable property, if any, found within such premises and belonging to the said person.

(4) (i) If any local or public authority fails to pay the taxes, fees, charges and surcharges of any interest thereon due from it for a period of six months, the Board may approach the State Government for taking necessary steps for recovery of the same and the State Government may then attach the fund or any portion thereof belonging to such local or public authority.

(ii) After attachment, no person except an Officer appointed in this behalf by the State Government shall in any way deal with the attached fund of portion thereof but such officer may, do all Acts in respect thereof which any such local or public authority of Officer or employee thereof might have done if such attachment had not taken place and may apply the proceeds in satisfaction of the arrears and of all interest due in respect thereof and of all expenses caused by the attachment and subsequent proceeding:

Provided that no such attachment shall defect or prejudice any debt for which the fund attached was previously charged in accordance with law but all such prior charges shall be paid out of the proceeds of the fund before any part of the proceeds is applied to the satisfaction of the debt due to the Board.

## **CHAPTER IX**

### **WATER SUPPLY**

#### **Board to provide supply of water**

53. (1) The Board shall provide supply of water throughout the urban area for domestic, commercial, industrial, recreational and other private or public purposes in accordance with such public health standards as may be prescribed, and the Board may regulate the hours, quantity and pressure of such supply.

(2) The supply of water under sub-section (1) shall include supply, free of charge, of water for domestic purposes through public stand-posts for which the Board may erect such stand posts at such convenient places as it may consider necessary, The Board shall also, until such time as it may consider necessary, continue to maintain the existing hand-operated public tube-wells and ring-wells belonging to a local body and vested in it under Section 18.

(3) The Board shall not be liable to pay any penalty or damages for failure to supply water either due to accident of other unavoidable cause or due to necessary repairs, replacements, extensions or other works connected with such supply.

#### **Regulation to provide connections for supply of water**

54. All connections of premises, street hydrants including fire hydrants and places of public resort to the mains of the Board for the supply of water therein and all pipes, taps, and other fittings used for such supply shall be made, maintained and regulated in accordance with, and subject to, such regulations as may be made. The Board may charge such connection and re-connection fees as may be provided by regulations.

#### **Power to direct the owner to obtain supply and lay down pipes hydrants, etc. in certain cases**

55. When any premises are without supply of water the Managing Director may by written notice require the owner of such premises to obtain such supply and for that purpose provide at the cost of such owner such pipes, hydrants, stand-posts and other fittings and execute such other works as the Managing Director may decide:

Provided that —

(a) The cost of executing the said works beyond seventy metres from the premises shall be paid out of the fund of the Board; and

(b) If the Managing Director is satisfied that the owner is unable to bear the whole or any part of the cost of even such portion of the said works as is within seventy metres from the premises, he may, with the approval of the Board, direct that the whole or such part of the cost be paid from the fund of the Board.

#### **Prohibition of unauthorised use of water**

56. No person shall use water except as authorised by this Act or regulations made thereunder.

#### **Prohibition of wastage of water and keeping in order pipes, taps etc.**

57. (1) No owner or occupier of any premises to which water is supplied by the Board shall negligently or otherwise suffer such water to be wasted or shall suffer pipes, taps, works and fittings for the supply of water to remain out of repair so as to cause wastage of water.

(2) No person shall cause wastage of water by the misuse of public stand posts, pipes, drinking fountains or hydrants.

#### **Prevention of wastage of water in premises**

58. (1) Whenever the Managing Director has reason to believe that as a result of defects in pipes, taps or fittings connected with water-supply, the water supply to any premises is being wasted, he may, by written notice, require the Owner of the premises, within such period as may be specified in the notice, to repair and make good the defects.

(2) If the repairs are not effected within the time specified in the said notice the Managing Director may cause such repairs to be made in order to stop wastage. The cost of such repairs shall be recovered from the Owner of the premises as an arrear of water charge.



### **Permission of Board to sink Tube-wells**

59. No tube-well shall be sunk in any urban area except in accordance with such regulations as may be made and without obtaining previous permission of the Managing Director in writing. The Managing Director may grant such permission subject to such further condition as he may deem fit or may refuse to grant permission.

### **Power to the Managing Director to cut off or turn off supply of water to premises**

60. (1) Notwithstanding anything contained in this chapter, the Managing Director may cut off the connection between any water works of the Board and any premises to which water is supplied from such works or may turn off such supply, in any of the following cases, namely —

(a) If the premises are unoccupied;

(b) If after receipt of written notice from the Managing Director requiring him to refrain from so doing the owner or occupier of the premises continues to use water or to permit the same to be used in contravention of this Act or any regulation made thereunder;

(c) If the owner or occupier refuses to admit any officer or employee of the Board duly authorised in that behalf into the premises for the purpose of making any inspection relating to water supply, or prevents such officer or employee from making such inspection;

(d) If the owner or occupier of the premises wilfully or negligently injures or damages the meter or any pipe or tap conveying water from any works of the Board;

(e) If any pipe, works or fittings connected with the supply of water to the premises be found on examination to be out of repair to such an extent as to cause such wastage of water that immediate prevention is necessary;

(f) If by reason of a leak in the service pipe or fitting, damage is caused to a public street and immediate prevention is necessary; or

(g) If there is any water pipe situated within the premises to which so tap or other efficient means of turning the water off is attached;

Provided that, except in the case where by reason of any of the circumstances referred to in clauses (d) to (g) there is risk of contamination of water, the Managing Director shall not cut off such connection or turn off such supply unless notice of not less than twenty four hours has been given to the owner or the occupier of the premises, as the case may be.

(2) No action taken under or in pursuance of this section shall relieve any person from any penalties or liabilities, which he may otherwise have incurred.

(3) The expense of cutting off the connection or of turning off the water and of restoring the same as determined by the Managing Director in any case referred to in sub-section (1) shall be paid by the owner or occupier of the premises:

Provided that no charge for such expenses shall be made in the case mentioned in clause (a) of the said sub-section.

### **Laying of pipes or construction of aqueducts etc. beyond the urban area for bringing water into it**

61. When it is necessary to bring water into the urban area from any place outside it, the Board may, if required, construct dams, reservoirs or other facilities outside the urban area, and may lay pipes or construct aqueducts and in so doing may exercise, throughout the line of country outside the urban area through which such pipes or aqueducts are to run, all the powers which it might exercise under this Act or any regulation made thereunder if the said pipes or aqueducts were to run within the urban area.

### **Power of the Board to take over other water supply system**

62. When the Board has taken over the water supply service in any area under Section 18 or is in a position to supply water in any area where there is no such after supply service, the Board may, after serving at least three months notice in such manner as may be provided by regulations take over any independent water-supply system in the area belonging to —

(a) The State Government, on such terms and conditions as the State Government may determine, and

(b) Any person, firm, Corporation or other organisation, on payment of compensation calculated on the basis of the market value on the date of service of the notice of all the properties connected with such system.

## **CHAPTER X**

### **DRAINAGE AND SEWERAGE**

#### **Board to provide Drainage and Sewerage and outfall**

63. (1) The Board shall construct and maintain drains and sewers and provide a safe and sufficient outfall, in or outside the urban area, for effectual drainage and proper discharge of storm water and sewage of the urban area.

(2) If the outfall deteriorates by the decay of existing river channel or otherwise, the State Government may require the Board to take at its cost such action as may be necessary to ensure a safe and sufficient outfall.

#### **Power of the Board to improve, discontinue drains etc.**

64. Power of the Board under section 63 shall include the power to —

(a) Enlarge, arch – over or otherwise improve any of its drains, or

(b) Discontinue, close up or destroy any of its drains which has in its opinion becomes useless or unnecessary, or



(c) Construct any new drains in the place of an existing drain in any land where in any of its drains has already been lawfully constructed or repair or alter any drain so constructed:

Provided that —

(i) If, in the exercise of any of its powers conferred by this section, it is proposed to demolish any house-drain, a written notice shall be served upon the owner of such drain; and

(ii) If by reason of anything done under this section, any person is deprived of the lawful use of any drain, the Board shall as soon as possible provide for his use some other drain as effectual as one, which has been demolished, closed up or destroyed.

#### **Power of the Board to carry its drains beyond the urban area for specific purpose**

65. (1) where it is necessary for the purpose of outfall or discharge of sewage to carry any drain of the Board outside the urban area, the Board may do so —

(i) Through, across or under any street or any place laid out as or intended for street, and

(ii) After giving reasonable notice in writing to the owner and occupier, into, through or under any land whatsoever or under any building.

(2) In the exercise or any power under this section, the Board shall cause a little damage as possible to any property and shall pay compensation to any person who sustains damage in consequence of the exercise of such power.

#### **Communication of Board, drains with drains, lakes, etc., beyond the urban area**

66. The Board may, if necessary, make its drains to communicate with or empty themselves into any public drain, lake, stream, canal or water-course outside the urban area and in so doing it may exercise throughout the line of country outside the urban area, through which the said drains are to run, all the powers which it might exercise under this Act if the said drains were to run entirely in the urban area.

#### **Right of owner or occupier of premises to empty drain, into drain of the Board**

67. The owner or occupier of any premises shall be entitled to cause his house-drain to empty into a drain of the Board, provided that, before doing so, he —

(a) Obtain a written permission of the managing Director and pays connection fee in accordance with the regulations, and

(b) Complies with such condition as the managing Director may specify as to the mode in which, and the superintendence under which, communications between house drains and the drains of the Board are to be made.

#### **Connection with drains of the Board not to be made except in conformity with Section 67**

68. No person shall without complying with provisions of Section 67 make or cause to be made any connection of a house drain with a drain of the Board.

#### **Compulsory connections of house drains with each other**

69. When a house drain belonging to one or more persons has been laid in a private street which is common to more than one premises, and the Managing Director considers it desirable, any other premises should be drained in to such drain, he may, by written notice, require the owner of such premises to connect his house-drain with such first-mentioned drain and the owner of such first-mentioned drain shall thereupon be bound to permit such connection to be made:

Provided that no such connection shall be made except upon such terms as may be provided by the regulations and until any payment, which may be directed by the Managing Director in accordance with the regulations, has been duly made.

#### **Power to enforce Drainage in to premises**

70. When any premises are, in the opinion of the Managing Director, without sufficient means of effectual drainage, he may by written notice require the owner of the said premises —

(a) To make house-drain emptying into a drain of the Board;

(b) To provide and set-up all such appliance and fittings, as may appear to the Managing Director necessary for the purposes of gathering and receiving the drainage from, and conveying the same off, the said premises and of effectually flushing such house-drain and every fixture connected therewith: or

(c) To remove any existing house-drain, or other appliance or thing used or intended to be used for drainage, which is injurious to health:

Provided that —

(i) In cases where the drain of the Board is beyond seventy metres from the premises the cost of constructing the portion of the house-drain beyond seventy metres from the premises shall be paid out of the fund of the Board; and

(ii) If the Managing Director is satisfied that the owner is unable to bear the whole or any part of the cost of constructing even the portion of the house-drain as is within seventy metres from the premises, he may, with the approval of the Board, direct that whole or such part of the cost be paid from the fund of the Board.

#### **Provision of Privy and Urinal accommodation in premises where such accommodation has not been provided or is insufficient**

71. Where any premises are without privy or urinal accommodation or if the Managing Director is of the opinion that the existing accommodation thereof available for the persons occupying or using the premises is insufficient, inefficient, or

for sanitary reasons objectionable, the Managing Director may, notwithstanding anything contained in any law governing any Municipal Corporation or Municipal Board or Town Committee as the case may be, or in any rule or bye-law made thereunder, by written notice, requires the owner the such premises to —

- (a) Provide such or such additional privy or urinal accommodation as he may specify, or
- (b) Make such structural or other alterations in the existing privy or urinal accommodation as he may specify, or
- (c) Substitute privy or urinal accommodation, directly connected with a sewer for any service privy or service urinal accommodation, within ninety days of such requisition.

#### **Cost of repair of privy payable out of the fund of the Board in certain cases**

72. When a notice has been issued under Section 71 in respect of any privy, urinal or group of privies or urinals and the Managing Director is satisfied that the owner of the land or building on or in which any such privy or urinal is situated is unable to pay the whole or part of the expenses of carrying out of the work required by the notice, he may, with the previous approval of the Board, direct that such expenses or such portion thereof be paid out of the fund of the Board.

#### **Power to the Managing Director to require, repairs, etc. to be made to house-drain, etc.**

73. (1) If any house drain, ventilation, shaft or pipe, cesspool, house gully, privy urinal or bathing or washing place in any premises is found on inspection and examination by the Managing Director or by any other officer authorised by him in this behalf to be not in good order or condition, or constructed in contravention of any of the provisions of this Act, or rule or bye-law made under the same, prevailing at the time of such construction, the Managing Director may by written notice require the owner of the premises —

- (a) To close or remove the same or any encroachment thereupon, or
- (b) To renew, repair, cover, re-cover, trap, ventilate, pave and pitch, flush, or cleanse or take such other action as he may think necessary in this regard.

(2) In any such case the Managing Director may forthwith and without notice —

(a) Stop up or demolish any house drain by which sewage, offensive matter or polluted water is carried through, from, into or upon any premises in contravention of any of the provision of this Act or any regulation made thereunder, or

(b) Clear, cleanse, or open out any house-drain which is checked, blocked or in any way obstructed, and all expenses incurred in so doing shall, in the discretion of the Managing Director be paid by the owner or the occupier of the premises.

#### **Regulations as to drains, privies and urinals**

74. Drains, privies and urinals and all appurtenances thereof shall be constructed, maintained, repaired, altered and regulated in accordance with such regulations as may be made.

#### **Power of Managing Director to require occupier to carry out work in place of owner**

75. Under the provisions of this chapter and chapter IX, the Managing Director may require the owner of any premises to carry out any work he may, if he considers it desirable so to do, require the occupier of the said premises to carry out such work and the occupier shall be bound to comply with the requisition:

Provided that except in the case of a special agreement to the contrary, such occupier may deduct the amount of the expenses reasonably incurred or paid by him in respect of such work from the rent payable to the owner or may recover the same from him in any court of competent jurisdiction: **Explanation** – An occupier who is a tenant shall be deemed to have given his written consent to any expenditure incurred for any work done in pursuance or chapter IX add X of this Act which amounts to an improvement.

#### **Taking over by and vesting in the Board of other sewerage and drainage system**

76. (1) When the Board has taken any of the services relating to sewerage and drainage in any area under section 18 or is in a position to provide sewerage and drainage where there is no such service, the Board may, after serving at least three month's notice in such manner as may be provided by regulations, take over any independent sewerage or drainage system in the area belonging to.

(a) The State Government, on such terms and conditions as the State Government may determine, and

(b) Any person, firm, corporation or other organisation, on payment of compensation calculated on the basis of the market value on the date of service of the notice of all the properties connected with such system.

(2) Notwithstanding anything to the contrary contained in the Assam Municipal Act, 1956 and the Guwahati Municipal Corporation Act, 1969, and any other Municipal Corporation Act which may come into force from time to time after the Board has taken over the Municipal services relating to water supply, drainage or sewerage in any area, any works constructed in any street within the area by any Development Authority constituted under Assam Town & Country Planning Act 1959, in the course of execution of any improvement or development scheme for providing water, sewerage or drainage facilities therein shall vest in the Board on and from the date of such street vests in the Municipal Corporation, Municipal Board or Town Committee, as the case may be.

## **CHAPTER XI**

### **PROSECUTION AND PENALTY**

#### **Prosecution**

77. No court shall take cognisance of any offence under this Act or any rule or regulation made thereunder except on the complaint of an officer of the Board authorised by it in this behalf.

## **Penalty**

78. Whoever contravenes the provision of this Act or of any rule or regulation made thereunder shall be punishable with imprisonment, which may extend to one year or with fine, which may extend to one thousand rupees or with both.

## **CHAPTER XII**

### **MISCELLANEOUS**

#### **Power to undertake surveys**

79. The Board may, for the purpose of carrying out its functions, undertake survey within and outside the urban area and for that purpose it shall be lawful for any officer of the Board —

- (a) To enter upon and take level of any land;
- (b) To dig or bore into the sub-soil;
- (c) to mark levels and boundaries by placing marks and cutting trenches; and —
- (d) Where otherwise the survey cannot be completed and levels taken and boundaries marked, to cut down and clear away any part of any standing crop, fence or jungle:

Provided that before entering upon any land the Board shall give notice of its intention to do so in such manner as may be provided by regulations.

#### **Powers to the Board place and maintain pipes, drains etc.**

80. The Board may from time to time place and maintain pipes, drains and other installations upon, along, across or under any immovable property and enter upon such property for such purpose and for the purposes of examining, repairing, altering or removing such pipe, drains and installations:

Provided that the Board shall not acquire any right other than that of user only in the property upon, along across or under which the Board place the pipes, drains and other installations:

Provided further that before commencing any operation under this section, the Board shall give notice of its intention to do so in such manner as may be provided by regulations.

#### **Payment for damage**

81. While exercising any power conferred upon the Board under Section 79 and 80, the Board shall cause as little damage as possible to any property, and shall pay compensation to all persons, interested in any such property, not being a property of the State Government, for any damage sustained by them in consequence of the exercise of such power.

#### **Power to acquire land compulsorily**

82. The Board may for the purpose of carrying out its functions under this Act, with the previous sanction of the State Government, compulsorily acquire any land with or without structure thereon under the provisions of any law for the time being in force authorising such acquisition.

#### **Transfer of land to the Board**

83. When any land has been acquired in pursuance of Section 82, the collector within whose jurisdiction the land is situated shall, upon payment of the cost of acquisition, make over charge of land to the Board, and the land shall thereupon vest in the Board, subject to the liability of the Board to pay any further cost which may have been incurred on account of its acquisition.

#### **Conditions of service of officers and employees**

84. Subject to the provisions contained in Section 8, for all appointments under the said section the method of recruitment, qualifications, pay and other terms and conditions of service shall be such as may be provided by regulations.

#### **Office and employees to be subordinate to the Managing Director**

85. (1) All officers and employees of the Board shall be subordinate to the Managing Director.

(2) Any officer or employee aggrieved by an order or decision of the Managing Director or any other officer authorised by the Managing Director in this behalf inflicting punishment on him, may appeal to the Board and the decision of the Board thereon shall be final.

#### **Delegation of powers**

86. The exercise of any power delegated under this section shall be subject to such restriction and conditions as may be specified in the order and also to control and revision by the Government or by such officer as may be empowered by the Government in this behalf or, as the case may be, by the Board or such officer as may be, empowered by the Board in this behalf.

#### **Powers of Managing Director as to the Institution, composition etc. of legal proceedings and obtaining legal advice.**

87. The Managing Director may, subject to the control of the Board —

- (i) Institute, defend or withdraw from legal proceedings instituted under this Act or any rules made thereunder;

(ii) Compound any offence against this Act or any rules made thereunder which, under any law for the time being in force of the rules prescribes by the Government may lawfully be compounded;

(iii) Admit, compromise or withdraw any claim made under this Act or any rules or bye-laws or schemes made thereunder; and

(iv) Obtain legal advice and assistance as may from time to time, think necessary or expedient to obtain, or as may be desired by the Board to obtain, for any of the purposes referred to in the foregoing clauses of this section, or for securing the lawful exercise or discharge of any power or duty vested in or imposed upon the Board or any officer or employee of the Board.

#### **Power of the Government to issue order and directions to the Board**

88. The Government may issue to the Board such order and directions as in their opinion are necessary or expedient for carrying out the purposes of this Act and the Board shall give effect to all such orders and directions.

#### **Adjudication of disputes between in Board and Local Authorities**

89. (1) When a dispute exists between the Board and one or more other local authority or among local authorities in regard to any matter arising under the provisions of this Act, and the State Government are of the opinion that the parties are unable to settle it amicably among themselves, they may take cognisance of the dispute and decide it themselves.

(2) The decision of the State Government thereon shall be binding on the Board and the local authorities concerned and shall not be liable to be questioned in any court of law.

#### **Effect of other laws**

90. Save as otherwise provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in it, any other law for the time being in force or any custom, usage or contract or decree or order of a court or other authority, and the provisions which do not suffer from any such inconsistency shall be in addition to and not in derogation of any other law for the time being in force.

#### **Notice of Suit Against Board etc.**

91. No suit shall be instituted against the Board, or any Director, or any officer or employer of the Board, or any person acting under the direction of the Board, or of the Chairman or Managing Director or any officer or employee of the Board, in respect of any action done or intended to be done under this Act or any rule or bye-law or scheme made thereunder until the expiration of sixty days next after written notice has been delivered or left at the Board's office or the place of abode of such officer, employee or person, stating the cause of action, the name and place of abode of the intending plaintiff, and the relief which he claims, and the plaint must contain a statement as to whether such notice has been so delivered or left.

#### **Compensation to be paid by Offenders for Damage caused by them**

92. (1) When any person is convicted of any offence under this Act or any rule or bye-law or scheme made thereunder, the magistrate convicting such person may, on application made in this behalf by the Board or by its officer or employee authorised by it in this behalf, call upon such person forthwith to show cause as to why he should not pay compensation to the Board for damage caused by the commission or omission in respect of which he is convicted.

(2) The Magistrate shall record and consider any cause which such person may show and if the magistrate, after making such enquiry as he may think fit, is satisfied that such person is liable to pay compensation, may direct that a sum, not exceeding one thousand rupees as he may determine, be paid by such person as compensation to the Board.

(3) The amount of compensation directed to be paid under sub-section (2), shall if it be not paid forthwith, be recovered as if it were a fine imposed by the magistrate on such person.

#### **Prohibition of removal of mark**

93. No person shall remove any mark placed, or fill up any trench cut, for the purpose of marking levels and boundaries by the Board under the provisions of this Act.

#### **Mode of recovery of dues**

94. (1) If any amount due to the Board in accordance with the terms of a contract or otherwise or any sum payment in connection therewith, or any dues referred to in Section 44 of this Act, has not been paid by the person liable for payment of the dues within thirty days from the service of notice of demand, such sum together with all costs and penalties, if any, may be recovered under a warrant issued in the form to be prescribed by distress and sale of the movable property or the attachment and sale of the immovable property of the defaulter.

(2) Where the property is in the urban area, the warrant shall be addressed to an employee of the Board and where the property is outside the urban area, to the collector of the district concerned, who shall proceed to collect it as arrear of land revenue:

Provided that the employee to whom the warrant is addressed may endorse such warrant to a subordinate employee.

(3) For every warrant issued under this section, a fee shall be charged at the rates to be prescribed by the Board and the amount of the said fee shall be included in the cost of recovery.

#### **Authentication of orders and other instruments of the Board**

95. (1) All orders and decision of the Board shall be authenticated by the signature of the Secretary or any officer of the Board authorised in writing by the Board in this behalf.

(2) The Managing Director or any officer of the Board authorised in writing in this behalf may sign on behalf of the Board any agreement or other instrument to be executed on behalf of the Board.

### **Stamping signature on Notice or Bills**

96. Every notice or bill which is required by this Act or by any rule or bye-law made thereunder to bear the signature of the Managing Director or any other Director or of any officer or employee of the Board, shall be deemed to be properly signed if it bears the facsimile of the signature of the Managing Director or such other Director or such officer or employee as the case may be stamped thereupon.

### **Protection of action taken in good faith**

97. (1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith, done or intended to be done in pursuance of this Act or any rule or order or scheme made thereunder.

(2) No suit or other legal proceedings shall lie against the Government, the Board or any committee thereof, for any damage caused or likely to be caused by anything which is good faith done or intended to be done in pursuance of this Act or of any rule or order or scheme made thereunder.

### **Officers and employees of the Board to be public employees**

98. All officers and employees of the Board and any person entrusted with the execution of any function under this Act shall be deemed to be public employees within the meaning of section 21 of the Indian Penal Code (Central Act XLV of 1960).

### **The Board to be a Local Authority under central Act I of 1894 and central Act 19 of 1914**

99. The Board shall be deemed to be a local authority for the purposes of the Land Acquisition Act 1894 (Central Act 1 of 1894) and the Local Authorities Loans Act, 1914 (Central Act IX of 1914).

### **Duties of Local Bodies to assist**

100. (1) All Local Bodies shall render such help and assistance and furnish such information to the Board and shall make available for its inspection and examination and if necessary, preparation of copies from such records maps, plan and other documents, as it may require to discharge its function under this Act.

(2) Without prejudice to the provisions of sub-section (1), every local body shall on demand make available free of cost, certified copies or extracts from assessment lists and other relevant documents in connection with assessment of annual value of premises and levy of taxes, fees and charges.

(3) Without prejudice to other provisions of this Act and notwithstanding anything contained in any other law for the time being enforce, the State Government may give to any local body such direction as in its opinion may be necessary or expedient for enabling and Board to perform its functions under this Act and thereupon it shall be the duty of the local body to comply with such directions.

### **Determination of the value of vested properties**

102. (1) The value of all properties and assets vested under Section 18 shall, after notifying the date and time for the purpose and allowing an opportunity of being heard to the local authorities or others concerned, shall be determined by the Board, and such determination shall be final subject to an appeal which may be preferred within thirty days from the date of such determination to such judicial officer of the State Government not below the rank of a District Judge and in such manner as may be prescribed.

(2) The value so determined under sub-section (1) shall be entered in the Books of the Board as the value on the date of transfer.

### **Power of study**

103. It shall be lawful for the Managing Director or any officer authorised by him in this behalf to enter into or upon any land or building within the urban area with or without assistants or workmen in order to make any enquiry, inspection, measurement or valuation, or to execute any work which is authorised by or under this Act or which it is necessary to executive for any of the purposes or in pursuance of any of the provisions of this Act or of any rule or regulation made thereunder:

Provided that before entering upon such land or building, notice of the intention to do so shall be given to the owner or occupier or both in such manner as may be provided by regulations.

### **Power of inspection and examination**

104. (1) The Managing Director or an officer authorised by him in this behalf may —

(a) Inspect and examine any house-drain, ventilation shaft or pipe, cess-pool, house-gully, privy, urinal or bathing or washing place existing in, or any pipe, tap, fitting or metre for supply of water to, any premises; and

(b) If necessary for the purpose of such inspection and examination, cause the ground or any portion of any house-drain or other work exterior to a building or any portion of a building to be opened, broken up or removed:

Provided that in the prosecution of any such inspection and examination as little damage as possible shall be done.

(2) Any ground or any portion of any house drain or other work exterior to a building or any portion of a building opened, broken up or removed under clause (b) of sub-section (1) shall be filed in, re-instated and made good by —

(a) The owner of the premises at his own cost where the works or things mentioned in clause(a) of sub-section (1) are found on inspection and examination to be not in good order or condition or constructed in contravention of any of the provisions of this Act or any regulation made thereunder, or of any other Act, or rule or byelaw made under the same, prevailing at the time of such construction, and

(b) The Board, in other cases.

(3) Where the owner of any premises raises any dispute as to the existence of any of the circumstances referred to in clause (a) of sub-section (2) he may, within thirty days from the date of inspection and examination, make a written representation to —

(a) The Managing Director, in cases where the inspection and examination is done by any officer of the Board other than the Managing Director, and

(b) The Board, in other cases, and the decision of the Managing Director or the Board as the case may be, shall be final.

#### **Power of Board and Managing Director to enforce requisition or order**

105. (1) When any requisition or other is made under any of the provisions of this Act or any regulation made thereunder by a written notice issued by the Board or the Managing Director, a reasonable period shall, unless otherwise provided for under such provision, be specified in such notice for carrying such requisition or order into effect, and a reasonable period shall also be specified therein within which any written objection thereto shall be received by the Managing Director.

(2) Such written objection, if any, shall be heard and disposed of by the Managing Director after giving notice to the objector and the order of the Managing Director thereon shall be final.

(3) If the requisition or the order is not complied with within the period specified in the notice or, if an objection has been preferred and disallowed, within such extended time as may be specified in the order of disposal of the objection, the Managing Director may take such measure or cause such works to be executed or such things to be done as may, in his opinion, be necessary for giving due effect to the requisition or the order so made, and unless it is otherwise expressly provided in this Act or in any regulation made thereunder, the expenses thereof shall be paid by any one of the persons to whom such requisition or order was addressed and shall be recoverable as arrears of water charge.

(4) The Managing Director may take any measure under sub-section (3), whether or not the person who has failed to comply with the requisition or order is liable to punishment or has been prosecuted or sentenced to any punishment under this Act or any regulation made thereunder for such failure.

#### **Compensation**

106. (1) The compensation payable under Sections 62, 65, 76 and 81 shall be determined by the Managing Director or any other officer authorised by him in this behalf in such manner as may be prescribed; provided that where the amount of claim exceeds rupees twenty-five thousand, the Managing Director shall refer the claim to the Board which shall then determine compensation in such manner as may be prescribed.

(2) No person shall obstruct any person with whom the Board has entered into a contract, in the performance or execution by such person of his duty under, or in doing anything, which he is empowered to do by virtue of, or in consequence of, this Act or any rule or regulation made thereunder.

#### **Appeal**

107. (1) Any person aggrieved by an order of the Managing Director or the officer determining the annual value of any land or building under Section 46 or by an order of the Board, the Managing Director or the officer, as the case may be, determining the amount of compensation under subsection (1) of Section 106 or determining the persons entitled thereto or apportioning the amount thereof under sub-section (2) of the said section may, within sixty days from the date of such order, prefer an appeal to such authority as may be appointed by the State Government by notification.

(2) No person shall be appointed under sub-section (1) as an authority to hear appeals unless he is or has been a judicial officer for at least 10 years.

(3) Appeals under sub-section (1) shall be filed and heard in such manner as may be prescribed.

#### **Prohibition of obstruction**

108. (1) No person shall, in any way, obstruct any Director, officer or employee of the Board in the discharge of any duty or the exercise of any power under this Act.

(2) No person shall obstruct any person with whom the Board has entered into a contract, in the performance or execution by such person of his duty under, or in doing anything, which he is empowered to do by virtue of, or in consequence of, this Act or any rule or regulation made thereunder.

#### **Repeal and amendment**

109. With effect from the date of vesting in the Board of any of the services of water supply, sewerage and drainage in any area, the provisions of the Assam Municipal Act, 1956 or the Guwahati Municipal Corporation Act, 1969 or any other Act for the time being in force relating to such services shall stand repealed in the area.

#### **Duties of Police Officers**

110. (1) It shall be the duty of every Police Officer —

(a) To co-operate with the Board for carrying into effect and enforcing the provisions of this Act or any rule or regulation or scheme made thereunder;

(b) To communicate without delay to the proper officer or employee of the Board any information, which such police officer received, of a design to commit, or of the commission of, any offence against this Act or any rule or regulation or scheme made thereunder; and

(c) To assist the Board or any officer or employee of the Board reasonably demanding the aid of such police officer for the lawful exercise of any power vesting in the Board or any such officer or employee under this Act or any rule or regulation or scheme made thereunder.



(2) Any police officer that omits or refuses to perform any duty imposed on him by this Act shall be deemed to have committed the offence under the relevant provisions of Assam Police Act.

(3) The State Government may empower any officer or staff or any class of officer or staff of the Board to exercise the powers of a police officer for the purposes of this Act.

#### **Arrest of offenders**

111. (1) Any police officer not below the rank of a head constable, may arrest any person who commits in his presence, any offence against this Act or any rule or regulation or scheme made thereunder, if the name or address of such person be unknown to him and if such person on demand declares to give his name or address, or gives a name or address which such officer have reason to believe to be false.

(2) No person so arrested shall be detained in custody after his true name and address are ascertained or for any longer time than is necessary for bringing him before a magistrate and in no case shall such detention exceed twenty-four hours from the time of arrest without the orders of a magistrate.

#### **Offences by Companies**

112. (1) If the person committing an offence under this Act is a Company, every person, who at the time the offence was committed was in-charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence, and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge, or that he exercised all due diligence to prevent the commission of the offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under this Act, has been committed by a company, and it proved that the offence had been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer shall also be deemed to be proceeded against and punished accordingly.

**Explanation –** For the purposes of this section: —

(a) “Company” means a body corporate and includes a firm or other association of individuals; and

(b) “Director” in relation to a firm means a partner in the firm.

#### **Emergency powers of Managing Director**

113. The Managing Director may, in cases of emergency, direct the execution of any work or the downing of any Act which requires the sanction of the Board if the immediate execution or the doing of which is, in his opinion, necessary service or safety of the public and may also direct that the expenses of executing the work or of doing the act shall be paid from the funds of the Board:

Provided that, —

(a) He shall not act under this section in contravention of any direction of the Board or Government prohibiting the execution of any particular work or the doing of any particular act.

(b) He shall report the action taken by him under this section and the reasons thereof to the board at its next meeting and shall also submit a copy of his report to the Government and the Board or the Government as the case may be, may issue such directions as it or they may deem fit on such report.

#### **Revision**

114. (1) The Government may call for the records of any proceeding of the Board or any officer subordinate to the Board for the purposes of satisfying itself as to the legality or propriety of any order or proceedings and may pass such order with respect thereto as it thinks fit.

(2) The Board may call for the record of any proceedings of any officer subordinate to it for the purpose of satisfying itself as to the legality or propriety of any order or proceedings and may pass such order with respect thereto as it thinks fit.

(3) No order under sub-section (1) or sub-section (2) shall be made to the prejudice of any person unless he has had a reasonable opportunity of being heard.

### **CHAPTER XIII**

#### **RULES AND REGULATIONS**

##### **Power to make rules**

115. (1) The State Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for —

(a) All matters expressly required or allowed by this Act to be prescribed;

(b) The qualifications for appointment of and the grant of leave of absence to, the Vice-Chairman and the Managing Director of the Board.

(c) The conditions of service of the Vice-Chairman, the Managing Director and the Non-official directors including the payment of any honorarium or sitting fees for attending the meeting of the Board and any other allowances and the manner of filling casual vacancies in the office of the Non-official directors of the Board;



- (d) The functions of the Board;
  - (e) The conditions for the acquisition, transfer, etc. of any property by the Board;
  - (f) The mutual relationship of the Board and other local authorities in any matter in which they are jointly interested;
  - (g) The manner of operation of funds by the Board;
  - (h) The Borrowing and lending of money by the Board;
  - (i) The form and manner and the time limit for the submission of statistics and returns by the Board to the Government;
  - (j) The manner in which the accounts of the Board will have to be published;
  - (k) The rights' privileges and authority of auditors appointed under this Act;
  - (l) The officer before whom an appeal may be preferred and the manner of doing so under sub-section (1) of Section 102;
  - (m) The manner of determining annual value under Section 46;
  - (n) The public health standards of water supply under sub-section (1) of Section 53;
  - (o) The manner of determining compensation under sub-section (1) of Section 106;
  - (p) The manner of filling and hearing of appeals under sub-section (3) of Section 107;
- (3) All rules made under this Act shall be published in the Official Gazette and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

### **Power to make regulations or bye-laws**

116. (1) The Board may by notification make regulations or bye-laws not inconsistent with this Act, and the rules made thereunder, for the purpose of giving effect to the provisions of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such regulations or byelaws may provide for —
- (a) All matters expressly required for allowed by this Act to be prescribed by regulations;
  - (b) Terms and conditions of appointment and service and the scales of pay of officers and employees of the Board including the payment of travelling and daily allowances in respect of journeys undertaken by such officers and employees of the Board;
  - (c) The supervision and control over the acts and proceeding of the officers and employees of the Board and the maintenance of discipline and conduct among the officers and employees of the Board;
  - (d) The procedure in regard to the transaction of business at meetings of the Board including the quorum;
  - (e) The purpose for which and the manner in which temporary association of persons may be made;
  - (f) The duties, functions and terms and conditions of service of the members of the Committees;
  - (g) The duties, functions and the powers of the Chairman, Vice-Chairman, the Managing Director, the Secretary, the Chief Engineer, the Chief Accounts Officer and other Officers of the Board;
  - (h) The manner and the form in which a sinking fund, a depreciation reserve fund and a development fund shall be constituted;
  - (i) The manner and the form relating to the maintenance of the accounts of the Board;
  - (j) The terms and conditions for supply of water for domestic and other purposes;
  - (k) The installation of metres or the transfer of their connection, and their use maintenance, testing, disconnection and reconnection, the fees the rent and other charges in respect thereof, including the furnishing of security by the consumer and matters connected therewith;
  - (l) The manner of notifying the rates of water charge, surcharge and tax under sub-section (2) of Section 44;
  - (m) The manner of determining consumption of water under sub-section (2) and (3) of Section 48;
  - (n) the time, place an manner of Payment of taxes, fees, charges and surcharges under sub-section (1) of Section 52;
  - (o) The rules for making, maintaining and regulating connections for the supply of water and fees for connection and reconnection under Section 54;
  - (p) The conditions for sinking tube wells under Section 59;
  - (q) The procedure for obtaining and the granting or written permission and the payment of connection fee referred to in clause (a) of Section 67;
  - (r) The terms and the amount payable for compulsory connection of house-drains under the proviso to Section 69;
  - (s) The rules for construction, maintenance, etc., of drains, privies and urinals under Section 74;
  - (t) All matters in connection with investigation, construction, maintenance and repair of any water works, sewerage system and drainage system or for such systems contingent upon them;
  - (u) Any other matter, which may be or is required to be provided by regulations under this Act.

(3) No regulation/bye-law or its cancellation or modification shall have effect until the same shall have been approved by the Government.

(4) The Government may, by notification, rescind any regulation made under this section and thereupon; the regulation shall cease to have effect.

## CHAPTER XIV

### Transitory Provisions

117. (1) Any water-tax or drainage-tax imposed by the local body concerned in respect of any urban area before the appointed day, and any notification, notice, order, direction, rule, bye-law or from in relation to a such tax or to the provision of water-supply or sewerage or drainage services immediately before the appointed day. Including any assessment or order or order for exemption of connection, disconnection or reconnection made or granted, or penalty imposed in respect of the owner or occupier of any premises, or any licence issued to a plumber, or any order made in connection therewith, under any provision of law applicable to the local body having jurisdiction over the urban area, and in force until other provision or order is made or other proceedings or action taken under this Act by the Board for imposition or assessment of such tax or for grant or such licence of connection or provision of such services, and reference in such notification, notice, order, direction, rule, bye-laws or licence to the local body concerned, shall be construed as a reference to the Board and in particular the proceeds of such taxes and fees shall go into the Board's fund instead of the fund of the local body concerned.

(2) All proceedings for acquisition of land in connection with any water-supply or sewerage or drainage services or sewage farm initiated by or at the instance of any local body or the State Public Health Engineering Organisation before the appointed day under the Land Acquisition Act, 1894, or any other law shall continue from the stage at which they are pending on the appointed day, and the Board shall be substituted for such local body or the State Public Health Engineering Organisation, as the case may be, and those proceedings shall be deemed to be for the benefit of the Board, and all liabilities in respect thereof shall fall on the Board.

**K. LASKAR,**  
**Joint Secy. To the Govt. of Assam,**  
**Legislative Department.**