

WATER AUTHORITY ACT 1984.

(No. 3 of 1984).

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WATER AUTHORITY.

No. 3 of 1984

AN ACT to establish the Water Authority of Western Australia; to provide for the constitution, maintenance and functions of that Authority and for a Board of Management; and for related purposes.

[Assented to 18 May 1984.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY.

Division 1.—Commencement and interpretation.

1. This Act may be cited as the *Water Authority Act 1984* Short title.

Commence-
ment.

2. The provisions of this Act shall come into operation on a day to be fixed by proclamation.

Interpreta-
tion.

3. In this Act, unless the context otherwise requires—

“acting member” means a person appointed under section 11 to be an acting member of the Board;

“appointed day” in relation to—

- (a) a statutory authority, means the day appointed in respect of that statutory authority pursuant to section 4; and
- (b) section 28, means such day as may be fixed by the Governor by Order in Council published in the *Government Gazette*;

“Authority” means the body corporate known as the Water Authority of Western Australia established pursuant to section 7;

“Board” means the Board of Management of the Authority constituted pursuant to section 11;

“Chairman” means the person for the time being appointed—

- (a) in respect to the Authority, under subsection (2) of section 11;
- (b) in respect to a Regional Advisory Committee, under subsection (4) of section 21; and
- (c) in respect to a committee of the Authority, under subsection (3) of section 17,

and includes a person acting in the office of Chairman;

“committee of the Authority” means a committee appointed pursuant to section 17;

“council” means the executive body of a municipality or regional council within the meaning of the Local Government Act 1960 or a Commissioner appointed pursuant to that Act;

“Division” means a division of the Part wherein the term is used;

“functions” include duties;

“government department” or “department” includes any branch of the Public Service of the State established as a Department within the meaning of that term as defined in the Public Service Act 1978, but also means any other body established by an Act being a body that—

- (a) administers or carries out in the State functions in the public interest on behalf of the Crown in right of the State, or which carries out the function of a public utility; and
- (b) is declared by the Governor, by Order in Council, to be deemed to be a government department for the purposes of this Act;

“land” includes any buildings or structures or, over or under that land;

“local authority” means—

- (a) a council;
- (b) a Local Board of Health under the Health Act 1911; or
- (c) a Water Board constituted under the Water Boards Act 1904;

“Managing Director” means a person appointed pursuant to section 23 to be the Managing Director of the Authority;

“member” means—

- (a) a member of the Board, or pursuant to subsection (11) of section 11 a person acting in the place of a member of the Board;
- (b) a member of a committee of the Authority; or
- (c) a member of a Regional Advisory Committee,

as the case may require;

“Part” means a Part of this Act;

“Regional Advisory Committee” means a committee appointed pursuant to section 21;

“relevant Act” means an Act referred to in subsection (1) of section 5, or the provisions of an Act determined pursuant to an Order made under subsection (2) of section 5 to comprise a relevant Act;

“section” means a section of this Act;

“subsection” means a subsection of the section wherein the term is used;

“statutory authority” means—

- (a) a Minister of the Crown in right of the State when acting in the capacity of a body corporate; or
- (b) any person or body, corporate or unincorporate, other than a Minister of the Crown in right of the State,

who or which administered or administers, or carried out or carries out on behalf of the Crown in right of the State functions in the public interest (being functions which the Authority is by this Act authorised to administer) pursuant to, a relevant Act;

“the Account” means the Water Authority of Western Australia Account maintained pursuant to section 39.

4. (1) For the purpose of effecting the transfer of functions from a statutory authority to the Authority the Governor may, by Order in Council—

Appointed days, in relation to statutory authorities.

- (a) designate a statutory authority by reference to the name by which it is known, the relevant Act or the provisions of the relevant Act and a summary of the functions to be affected; and
- (b) fix a day, being a day not earlier than 28 days after the making of the Order, to be the appointed day on which, in respect to that statutory authority, the provisions of subsection (2) of section 7 shall have effect.

(2) The Minister shall cause a notice of the making of an Order under subsection (1) together with a relevant notice under section 8 to be published in the *Government Gazette* and the effect of those notices to be otherwise promulgated for public information.

5. (1) Subject to subsection (2), for the purposes of this Act each of the enactments following is a relevant Act—

Relevant Acts.

Metropolitan Water Authority Act 1982.

Metropolitan Water Supply, Sewerage and Drainage Act 1909.

Rights in Water and Irrigation Act 1914.

Water Supply Sewerage and Drainage Act 1912.

Water Supply, Sewerage and Drainage Amendment and Validation Act 1981.

Country Areas Water Supply Act 1947.

Country Towns Sewerage Act 1948.

Land Drainage Act 1925.

Water Boards Act 1904, as read with the Water Boards Act Amendment Act 1928.

Agricultural Areas, Great Southern and Goldfields Water Supply Act 1947.

Coolgardie Goldfields Water Supply Construction Act 1898.

(2) The Governor may by Order in Council published in the *Government Gazette*, in relation to the functions specified in that Order carried on by a statutory authority so specified, determine—

- (a) that the provisions of an Act (not being a relevant Act referred to in subsection (1)) specified in that Order shall be taken to comprise a relevant Act for the purposes of effecting a transfer of the administration of those functions from that statutory authority to the Authority pursuant to a notice under section 8; or
- (b) that the provisions of a relevant Act specified in that Order shall be taken not to be affected, or not to be affected in relation to the matters or circumstances so specified, by the operation of a notice under section 8, to the intent that the specified functions shall continue to be carried on by the statutory authority notwithstanding that by the general terms of that notice a transfer of the administration of the functions of that statutory authority to the Authority is effected,

and effect shall be given to any such determination according to its tenor.

Division 2.—Transitional provisions.

6. (1) Without limiting the operation of the provisions of the Interpretation Act 1918, until regulations, by-laws, or rules are made under this Act, or are made on the recommendation of or by the Authority under a relevant Act, in relation to any matter the regulations, by-laws and rules applicable to that matter made under a relevant Act in force immediately prior to the coming into operation of this section shall continue thereafter to apply so far as they are not inconsistent with this Act.

Transitional
provisions
etc.

(2) Without limiting the operation of the provisions of the Interpretation Act 1918, unless the contrary intention appears in this Act—

- (a) all persons, things, and circumstances appointed or created by or under a relevant Act or existing or continuing under a relevant Act immediately prior to the coming into operation of this section shall under and subject to this Act continue to have the same status, operation and effect for the purposes of this Act; and
- (b) in particular and without affecting the generality of paragraph (a) of this subsection, the coming into operation of any provision of this Act shall not disturb the continuity of status, operation or effect of any order, direction, deed, agreement, instrument, document, debenture or inscribed stock, rates, scale of fees or charges, right, priority, liability, duty, obligation, proceeding, matter or thing made, done, effected, given, issued, entered into, accrued, incurred, existing, pending or acquired by or under any relevant Act and having effect immediately prior to the coming into operation of that provision unless or until the effect thereof is altered pursuant to the provisions of this Act or a relevant Act.

PART II—THE AUTHORITY.

Division 1.—The establishment and functions of the Authority, and its relationship to the Minister.

The
Authority.

7. (1) There shall be an Authority, to be known as the Water Authority of Western Australia, which shall—

- (a) be a body corporate, having perpetual succession and a Seal;
- (b) be capable in its corporate name of suing and being sued, and of acquiring, holding, leasing, managing, and disposing of real and personal property for the purposes of this Act or any relevant Act; and
- (c) be capable, subject to the provisions of this Act and for the purpose of giving effect to this Act or any relevant Act, of doing or suffering all such other acts and things as a natural person may in general lawfully do or suffer,

and the Authority is hereby charged, as the agent of the Crown in right of the State, with the duty of administering the rights and interests of the Crown in and in relation to water in the State.

(2) Where an appointed day is fixed pursuant to section 4 in relation to any statutory authority, then subject to this Act and to the provisions of any relevant Act, on and after that appointed day in relation to that statutory authority the Authority—

- (a) is hereby charged, as the agent of the Crown in right of the State, with the duty of administering; and
- (b) is hereby empowered to carry out,

such functions related to water, water supply, irrigation, drainage, waste water disposal or sewerage, (including the duty and power to locate,

conserve and manage the water resources of the State) as were, immediately prior to the appointed day, conferred or imposed on that statutory authority.

(3) The Authority shall report to the Minister on any matter relating to its functions referred to it by the Minister and may so report on any other matter that the Authority considers necessary.

(4) In carrying out its functions the Authority is, in the exercise of its powers and in the discharge of its duties, subject in all respects to the control and direction of the Minister in so far as the provisions of this Act or any relevant Act so permit.

(5) The Authority has all such powers, rights and privileges as are reasonably necessary to enable the Authority to give effect to this Act.

(6) The provisions of this section do not, unless the contrary intention appears, affect—

- (a) the previous operation of any relevant Act or anything duly done or suffered under any relevant Act.
- (b) any right, privilege, obligation or liability acquired or incurred under any relevant Act;
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against a relevant Act; or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this section had not been enacted.

Notice of
transfer of
the admin-
istration of
statutory
authorities.

8. (1) Where an appointed day is fixed pursuant to section 4 in relation to any statutory authority, the Minister may, by a notice published in the *Government Gazette* together with the Order appointing that day, declare that the statutory authority shall cease to be responsible for such functions as are specified in that notice and thereupon on and from that appointed day—

- (a) the Authority shall be charged with the duty of administering those functions of that statutory authority and shall carry out those functions, or cause them to be carried out, on behalf of the Authority;
- (b) where the statutory authority was a body corporate that body corporate shall be deemed to have been preserved, but in so far as its existence relates to those functions it is continued in existence only in so far that its corporate identity shall thereafter be a component of the corporate identity of the Authority;
- (c) any rights, land or other assets vested in that statutory authority or a Minister of the Crown in right of the State and utilised, as at the date immediately preceding the appointed day, for those functions may be utilised by, and for any of the purposes of, the Authority;
- (d) the engagements, obligations and liabilities of that statutory authority relevant to those functions, as at the date immediately preceding the appointed day, are imposed on the Authority;
- (e) that statutory authority shall cease to carry out those functions, except in so far as any such function is required to be carried out at the direction of the Authority to give effect to the transition contemplated by this section;

- (f) a person who immediately prior thereto held office as a member of that statutory authority, or of any management body or committee of that statutory authority not specifically preserved by the notice so published, ceases to hold that office; and
- (g) in relation to those functions any reference, whether or not abbreviated or correctly described, to that statutory authority or to the Under Secretary for the Public Works Department of the Public Service of the State or to that Department or to the Director of Public Works in—
 - (i) any law in force;
 - (ii) any document or other instrument executed, or entered into, or otherwise made,

prior to the appointed day may, unless the reference relates to a right of appeal to a Minister or the context otherwise requires, be construed as a reference to the Authority.

(2) Any question as to the relevance of any function or matter for the purposes of this section arising between the Minister and the Minister administering any other Act or law shall be determined after consultation pursuant to section 32 as though the question had been raised by a government department under a relevant Act.

(3) Where the Governor (after, in the case of an interest previously vested in some other Minister of the Crown in right of the State, consultation with that other Minister) by Order in Council so directs, any interest in land specified therein previously vested in a statutory authority or some other Minister of the Crown in right of the State which on and after the appointed day is to be utilised by the Authority shall, by operation of this section, be vested in the Authority and on receipt of any such Order the Registrar of Titles, the Registrar

of Deeds, or the Minister for the time being administering the Land Act 1933 (as the relevant category of title may require) shall, by reference to the terms of the Order, cause the like record to be made in the document of title or by memorial in the register relating to the title to the land in question to evidence the interest of the Authority as could have been made if a transfer or agreement relating to the vesting had been executed in full form.

The
Minister
and the
Authority.

9. (1) Subject to the Minister, the Authority shall be administered by the Board.

(2) The Minister, either generally or in relation to a specific matter, may give directions in writing to the Authority—

- (a) requiring the Authority or a committee of the Authority to undertake, or to abstain or cease from undertaking, under this Act or any relevant Act any function or particular operation specified in the direction;
- (b) as to policy and the implementation of policy;
- (c) as to the furnishing of reports, documents, papers and information to the Minister;
- (d) setting forth requirements for Ministerial approval in relation to aspects of the operations of the Authority specified in the directions;
- (e) as to the operations of the Authority or the proceedings of the Board or committees of the Authority; or
- (f) otherwise as to the exercise of the powers of the Authority or the discharge of its duties,

and the Board shall cause effect to be given to any such direction.

(3) Where the Minister, whether pursuant to this Act or to any relevant Act—

- (a) has given or gives to the Authority any direction;
- (b) has granted or grants any exemption; or
- (c) has exercised or exercises a discretion,

and that direction, exemption or discretion has a continuing effect the Authority shall cause the same to be recorded in writing and submitted to each Minister assuming the charge of the administration of this Act within 14 days of that Minister undertaking that function, and any such direction, exemption or exercise of discretion shall be deemed not to continue to have effect after the expiry of a period of 3 months from the date on which the record was submitted unless confirmed in writing by the Minister then charged with the administration of this Act.

(4) The Minister shall for the purposes of this Act be entitled at all times to avail himself of the services and assistance of any officer of the Authority.

10. (1) All courts, judges, and persons acting judicially shall take judicial notice of the Seal of the Authority affixed to any document and shall presume that such Seal was properly affixed thereto.

The
Authority
Seal,
authentic-
ation of
documents,
notices etc.

(2) The Authority may, by writing under its Seal, empower a person, either generally or in respect of a specified matter or specified matters, as its agent or attorney to execute deeds on its behalf, and

- (a) a deed executed by such an agent or attorney on behalf of the Authority binds the Authority and has the same effect as if it were under the Seal of the Authority; and
- (b) for the purposes of section 19 and section 20, such an agent or attorney shall be taken to be a delegate of the Authority.

(3) The authority of an agent or attorney empowered pursuant to subsection (2) shall be deemed, as between the Authority and a person dealing with him, to have continued during the period (if any) specified in the instrument conferring the authority or, if no period is so specified, until notice of the revocation or termination of his authority was given to the person dealing with him.

(4) In so far as the formalities of making, varying or discharging a contract are concerned, a person acting under the express or implied authority of the Authority may make, vary or discharge a contract in the name of or on behalf of the Authority in the same manner as if the Authority were a natural person.

(5) The making, varying or discharging of a contract in accordance with subsection (4) is effectual in law and, subject to section 57, binds the Authority and other parties to the contract.

(6) Subsection (4) does not prevent the Authority from making, varying or discharging a contract under its Seal.

(7) Every document, summons, notice or order requiring authentication by the Authority may be sufficiently authenticated without the Seal of the Authority if signed by the Managing Director, or if it bears a facsimile of the signature of that person.

(8) Any notice, summons, writ or other proceeding required to be served upon the Authority may be served by being given personally to the Authority or the Managing Director.

(9) By-laws made under this Act, or regulations or by-laws made under and for the purposes of a relevant Act, may make provision as to the use of the Seal of the Authority, or a facsimile of that Seal, with or without additional words, in the State and elsewhere, and the use in the manner and circumstances so prescribed of the facsimile Seal shall be deemed to be use of the Seal of the Authority.

Division 2.—The Board and committees of the Authority.

11. (1) Subject to this Act, the Board of Management of the Authority shall consist of—

The Board,
members and
acting
members.

- (a) the person holding or acting in the office of Chairman of the Western Australian Water Resources Council;
- (b) the person holding or acting in the office of Managing Director of the Authority;
- (c) a person, being an officer or other employee of the Authority, elected to the office in the prescribed manner by the officers and employees of the Authority; and
- (d) 6 other persons, not more than 1 of whom shall be a person who is an officer or other employee of the Authority, appointed by the Governor.

(2) From amongst the members who comprise the Board (other than the member appointed pursuant to paragraph (a) of subsection (1) or any member who, not being the Managing Director of the Authority, is an officer or other employee of the Authority) the Governor shall appoint a person to be Chairman of the Authority, who shall hold that office, subject to his remaining a member, for such period not exceeding 3 years as the Governor may determine and specify in the instrument by which he is appointed.

(3) A member of the Board appointed by the Governor shall, subject to this Act, hold office for such period not exceeding 3 years as the Governor may determine and specify in the instrument by which he is appointed and, upon the expiration of his term of office, be eligible for re-appointment.

(4) A member elected pursuant to paragraph (c) of subsection (1) shall, subject to this Act, hold office for a period of 3 years and, upon the expiration of his term of office, be eligible for re-election.

(5) Where a vacancy occurs in the office of an elected member otherwise than by effluxion of time, the person who fills the vacancy shall not hold office as member—

- (a) where his predecessor was an elected member, other than for the residue of his predecessor's term of office; and
- (b) in any other case, after such time as an election is held in the prescribed manner.

(6) Where—

- (a) an appointed or elected member is absent or temporarily incapable of fulfilling the duties of a member; or
- (b) the office of an appointed or elected member is vacant and has not been filled in accordance with this Act,

the Minister may appoint a person to act in the place of that member during that absence or incapacity, or until the vacancy is filled, as the case requires, and a person so appointed has, while the appointment subsists, all the duties, powers and entitlements of the member in whose place the person is appointed to act.

(7) The Minister, in the absence or incapacity of the Chairman or if that office is vacant, may appoint a person to act as Chairman and that person, while the appointment subsists, has all the functions, powers and duties of the Chairman.

(8) A member holding office pursuant to paragraph (a) or (b) of subsection (1) may nominate in writing a person to act in his place at any meeting at which he is unable to attend, and while so attending the person so nominated has the functions, powers and duties as a member of the person by whom he is nominated.

(9) The appointment of a person as an acting member or as acting Chairman, or the nomination of a person pursuant to subsection (8), may be terminated at any time by the Minister.

(10) A person who is a member of the Board—

(a) may be removed from office as a member by the Governor if that person—

(i) is or becomes an undischarged bankrupt or person whose property is subject to an order or arrangement under the laws relating to bankruptcy;

(ii) is, in the opinion of the Governor, permanently incapable of performing his duties; or

(iii) is absent, except on leave duly granted by the Minister, from 3 consecutive meetings of the Board;

(b) may resign office as a member, by notice in writing delivered to the Minister, but remain eligible for re-appointment; and

(c) who, being a person holding office under paragraph (c) of subsection (1), ceases to be an officer or employee of the Authority, shall vacate that office.

(11) Any reference in this Act to a member of the Board shall be construed as including a reference to any person acting pursuant to this section in the place of a member.

12. (1) Subject to subsection (2) of this section, members of the Board or any committee of the Authority shall be paid such remuneration and allowances as the Governor, on the recommendation of the Minister, determines. <sup>Remunera-
tion.</sup>

(2) If a person who would be eligible to receive remuneration or allowances under this Act is or becomes a member of, or a candidate for election to, the Parliament of the State or of the Commonwealth, he shall not be paid remuneration or allowances under this section but shall, subject to the approval of the Governor, be reimbursed such expenses as he reasonably incurs by reason of his attendance at meetings or of his engagement pursuant to this Act on the official business of the Authority.

Proceedings
of the
Board.

13. (1) The Board shall hold its meetings at such place on such days and at such intervals as the Board shall from time to time determine.

(2) The Minister or the Chairman may at any time convene a meeting of the Board, and shall do so upon the written request of 3 or more members.

(3) At any meeting of the Board 5 members shall constitute a quorum.

(4) At any meeting of the Board the Chairman, or in his absence a person appointed as acting Chairman, presides but where both are absent from a meeting of the Board the members present may appoint one of their number to preside at that meeting.

(5) At any meeting of the Board—

(a) the members present are each entitled to a deliberative vote, and any resolution may be carried by the vote of a majority of the members present and voting; but

(b) where the votes cast on any resolution are equally divided, the resolution shall be taken not to have been carried.

(6) The Board may permit such persons as the Board thinks fit on account of their qualifications, experience or interest to attend any meeting of the Board for such period as the Board thinks fit, and may require any officer or other employee of the

Authority to attend any meeting of the Board, but a person so permitted or required to attend at any meeting of the Board is not entitled to a vote at the meeting.

(7) The Board shall cause to be kept minutes of its proceedings in such manner and form as the Minister may direct or approve, and the minutes of the meeting shall be amended as necessary and certified correct either by the member presiding at the meeting or by the member presiding at the next succeeding meeting.

(8) Where the Minister so requests, the record of a meeting, whether or not the minutes have been certified correct, shall be furnished to the Minister forthwith.

(9) Subject to any direction given by the Minister, to any standing orders approved by the Minister, and to any rules made for or with respect to the conduct of the proceedings of the Board in all cases of dispute, doubt or difficulty respecting or arising out of matters of procedure or order the decision of the member presiding at a meeting of the Board shall be final.

14. Any member of the Board who has a pecuniary interest, which he has not previously disclosed pursuant to this section, in any matter—

Interests
to be
disclosed.

- (a) which is before a meeting of the Board at which he is present; or
- (b) on which he has advised the Board, whether or not he is present at the meeting where the matter is considered,

shall, as soon as possible after the relevant facts have come to his knowledge, disclose the fact and nature of his interest to an officer of the Authority nominated by the Board for that purpose who shall ensure that the fact and nature of the pecuniary interest is disclosed to the Board, and the Board shall ensure that the information disclosed is recorded in the minutes.

Matters not
to be
invalidated
by vacancies,
or defects in
appointment.

15. No proceeding or act of the Board, or of any committee of the Authority or any Regional Advisory Committee, at a meeting shall (if there is a quorum) be invalidated or illegal in consequence only of there being any vacancy in the number of members at the time of that proceeding or act, or in consequence of there being some defect in the appointment of a person purporting to be a member or of some irregularity occurring in the convening or holding of the meeting, or in any election or other proceedings taking place at or prior to the meeting, unless the matter is drawn to the notice of, and objected to at, the meeting.

Public
Service
Act, etc.

16. Acceptance of or acting in the office of member of the Board or a committee of the Authority or a Regional Advisory Committee by any person does not of itself render the provisions of the Public Service Act 1978, or any other Act applying to persons as officers of the Public Service of the State, applicable to that member, or affect or prejudice the application to him of those provisions if they applied to him at the time of the acceptance of or acting in that office.

Committees
of the
Authority.

17. (1) The Board may, from time to time, appoint one or more committees of the Authority to carry on, or to investigate or advise on such aspects of the functions of the Authority (not being the power of delegation) as—

- (a) are delegated to that committee pursuant to section 18;
- (b) are otherwise referred to that committee by the Board.

(2) The delegation or referral to a committee of the Authority of any power or duty does not relieve the Board or the Authority, as the case may be, of the responsibility for the actions or decisions of that committee.

(3) A committee of the Authority shall consist of such persons as the Board from time to time determines, whether members of the Board or persons who are not such members, but so that in every case, unless the Minister otherwise authorises, the Chairman of the committee shall be a person appointed by the Board from amongst its members or the officers of the Authority.

(4) A committee of the Authority shall report to the Board on its activities at such times as may be directed.

(5) Subject to this Act and to any direction given by the Minister or any rules made by the Authority, the proceedings of a committee of the Authority may be conducted in such manner as the members think fit.

Division 3.—Delegation and Authorisation.

18. (1) The Board in the name and on behalf of the Authority may, either generally or as otherwise provided by the instrument of delegation, by writing under the Seal of the Authority, delegate any functions or powers that are conferred or expressed to be conferred on the Authority by or under this Act or any relevant Act, other than—

Delegation,
and
authorised
persons.

- (a) this power of delegation;
- (b) the power of the Authority to make by-laws (not being by-laws to which section 35 refers), or the power of the Authority to make rules; or
- (c) a function or power that the Minister has directed shall not be delegated.

(2) A delegation under subsection (1) may be to—

- (a) a member of the Board or an officer of the Authority; or

- (b) some other specified person, or a person for the time being holding or acting in a specified office,

and a reference in this section to a person shall be construed as including a reference to a local authority, a committee of the Authority or any other body (whether a body corporate or a body of persons).

(3) The Board may by the terms of the instrument of delegation limit the exercise of the powers conferred, and may by notice in writing served on the delegate vary or revoke any delegation granted under subsection (1).

(4) Where a function or power is delegated under subsection (1) and the instrument of delegation so provides, the person to whom a function or power is delegated may authorise another person, by instrument in writing, to perform the whole or any part of the function or power so delegated, and may in like manner revoke or amend any such authorisation.

(5) Any act or thing done in the performance of a function or the exercise of a power by—

- (a) a person to whom that function or that power has been delegated by the Board on behalf of the Authority under subsection (1); or
- (b) a person authorised by a delegate under subsection (4) to perform that function or exercise that power,

has the same force and effect as if it had been done by the Authority.

(6) A delegation under subsection (1) does not prevent the performance of a function or the exercise of a power by the Authority.

(7) The giving of an authorisation under subsection (4) does not prevent the performance of a function or the exercise of a power by the person by whom the authorisation was given.

(8) Where a power is delegated that involves the exercise of a discretion which would be dependent upon an opinion or state of mind and that discretion is vested in the Authority, the discretion may be exercised by the delegate, or a person authorised under subsection (4), pursuant to his own opinion or state of mind unless the power so to do is limited by the terms of the instrument of delegation or authorisation.

(9) Where a person purports to perform a function or exercise a power conferred or expressed to be conferred on the Authority under any Act, it shall be presumed, unless the contrary is established, that the person is duly authorised as a delegate under this section, or is a person duly authorised by such a delegate to perform the function or exercise the power, and that he does so in accordance with the terms of the delegation or authorisation but he shall, if requested to do so, produce evidence of the terms of the delegation or authorisation.

(10) A person, being an officer of the Public Service or an officer or employee of a local authority, may perform or exercise any function or power that is conferred or expressed to be conferred on the Authority by or under any Act, being a function or power that is delegated to that person pursuant to this section or which he is authorised by such a delegate to perform or exercise, in addition to carrying out his duties as such an officer or employee.

(11) Where the Board has delegated a function or power to a person under this section—

- (a) the Board may give directions to the delegate with respect to the performance of that function or the exercise of that power; and
- (b) if the delegate has, under subsection (4), authorised another person to perform that function or exercise that power, the delegate—

- (i) shall, if the Board has given a direction to the delegate under

paragraph (a) with respect to the performance of that function or the exercise of that power, give a corresponding direction to the other person; and

- (ii) may, subject to any direction given to the delegate by the Board under paragraph (a), give directions to the other person with respect to the performance of that function or the exercise of that power,

and any relevant direction given by the Minister to the Authority shall be so given to the delegate by the Board.

Division 4.—Indemnity and Secrecy.

Exemption
from
personal
liability.

19. The Minister, or any person who is, or has been, a member of the Board or of a committee of the Authority or a Regional Advisory Committee or a delegate of the Authority, or authorised pursuant to subsection (4) of section 18, is not personally liable in civil proceedings for anything done or omitted in good faith by the Authority, the Board or him in, or in connection with, the exercise or purported exercise of any power conferred, or the carrying out of any duty or function imposed, on the Authority, the Board, such a committee or that person by this Act or any relevant Act.

Secrecy.

20. (1) Subject to this section, a person who is, or has been, a member of the Board or the board of management of a statutory authority or of a committee of the Authority or a Regional Advisory Committee or a delegate of the Authority or a statutory authority for the purposes of any relevant Act, or authorised to perform or exercise any function or power of the Authority or a statutory authority, or on behalf of the Authority or a statutory authority, or pursuant to subsection (4) of section 18, or appointed as an officer or employee

of the Authority or a statutory authority or pursuant to a relevant Act, shall not, except to the extent necessary to perform his official duties, or to perform or exercise such a function or power, either directly or indirectly, make a record of, or divulge or communicate to any person, any information that is or was acquired by him by reason of his being or having been so authorised or appointed or make use of any such information, for any purpose other than the performance of his official duties or the performance or exercise of that function or power.

Penalty: \$2 500 or imprisonment for a term of 12 months, or both.

(2) Nothing in subsection (1) precludes a person from—

- (a) producing a document to a court in the course of criminal proceedings or in the course of any proceedings under this Act, any relevant Act or any prescribed Act;
- (b) divulging or communicating to a court in the course of any proceedings referred to in paragraph (a) any matter or thing coming under his notice in the performance of his official duties or in the performance of a function or the exercise of a power referred to in that subsection;
- (c) producing a document or divulging or communicating information to a person to whom, in the opinion of the Authority, it is in the public interest that the document be produced or the information be divulged or communicated; or
- (d) producing a document or divulging or communicating information that is required or permitted by any Act, Commonwealth Act or Act of another State to be produced, divulged or communicated, as the case may be.

Division 5.—Regional Advisory Committees.

Regional
Advisory
Committees.

21. (1) To assist the Minister and the Authority in relation to any matters arising with respect to a particular region, there may be appointed from time to time by the Minister such Regional Advisory Committees having such functions as the Minister may determine.

(2) The region which a committee appointed under this section is to be concerned with shall be determined by the Minister, and the extent of the region shall be defined by reference to a map, or aerial photography, showing, where practicable using geographical or other known features, the locality in such a way as to enable the boundaries of the region to be readily identified.

(3) The membership of a Regional Advisory Committee shall so far as is practicable be selected from amongst persons resident in the local community to which the committee relates or who are representative of local authorities or officers of departments having responsibility for and knowledge of local affairs.

(4) The Minister may invite local authorities within or partly within or adjacent to the area with which a Regional Advisory Committee is to be or is concerned to nominate, in the manner and time specified by the Minister, persons for appointment to the committee, but whether or not any such nomination is received the Minister may select for appointment such persons as he thinks fit.

(5) The Minister may appoint a person to act as Chairman of a Regional Advisory Committee.

(6) A member of a Regional Advisory Committee shall hold office during the pleasure of the Minister but otherwise in accordance with the terms of the instrument by which he is appointed, and shall be paid such remuneration and allowances as the Minister determines.

(7) The Minister shall cause notification of the appointment of the Chairman and of the other members of a Regional Advisory Committee to be published in the *Government Gazette*.

(8) A Regional Advisory Committee may advise the Minister independently of the Authority where the Authority is at variance on any matter with that committee, and may communicate directly with the Minister on any matter.

(9) A Regional Advisory Committee shall make available to the Authority the records of its proceedings, and all documents relating to its functions under this Act, and shall advise and inform the Authority with respect to any matter referred to it by the Authority.

(10) In the performance of its functions a Regional Advisory Committee shall give effect to any direction, whether general or specific, which the Minister may give as to those functions.

(11) Subject to this Act and to any direction given, or any rules of procedure laid down, by the Minister, the proceedings of a Regional Advisory Committee may be conducted in such manner as the members think fit.

Division 6.—Procedural matters common to meetings of the committees of the Authority and Regional Advisory Committees.

22. (1) This section applies to, and in relation to, all meetings of a committee of the Authority or of a Regional Advisory Committee.

Committee procedures.

(2) The Chairman of the committee shall, when present, preside at all meetings of the committee.

(3) The Authority, and in default of any appointment by the Authority the Chairman of the committee, may by notice in writing appoint a person to preside at any meeting in the absence of

the Chairman of the committee and effect shall be given thereto, but in the absence both of that person and of the Chairman the members of the committee who are present at any meeting may elect one of their number to preside at that meeting.

(4) To constitute a meeting there must be more than one-half of the members of the committee present.

(5) The Minister or the Chairman of the committee may at any time convene a meeting and a meeting shall be convened by the Chairman of the committee within 7 days of the receipt by him of a written request signed by one-third of the members of the committee specifying the business in respect of which the meeting is to be convened.

(6) At any meeting all questions shall be decided by a majority of the members of the committee present and voting.

(7) Each member of the committee, including the person presiding, shall have a deliberative vote only.

(8) In the case of an equality of votes the question shall be declared to be negatived.

(9) A record of the proceedings of every meeting shall be kept in such manner as the Minister may direct or approve, and shall be amended as necessary and certified correct by the person presiding at that or the next succeeding meeting.

(10) A vacancy among the membership shall not invalidate the proceedings of any meeting.

(11) All acts done at any meeting shall, notwithstanding it is afterwards discovered that there was some defect in the appointment or qualification of a person purporting to be a member of the committee, be as valid as if that defect had not existed.

(12) A member of a committee who has a direct or indirect pecuniary interest in any matter that is before a meeting for consideration shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest to the persons present at the meeting and such disclosure shall be recorded in the record of the meeting.

(13) A member of a committee who has disclosed that he has a pecuniary interest in any matter may, except with the consent of the person presiding at the meeting, speak once only in the consideration or discussion, and is not eligible to vote in relation to that matter.

(14) In all cases of dispute, doubt or difficulty respecting or arising out of matters of procedure or order the decision of the person presiding at the meeting shall be final and conclusive.

Division 7.—Officers and Staff of the Authority.

23. (1) There shall be an office of Managing Director of the Authority.

Managing
Director
of the
Authority.

(2) The person holding or acting in the office of Managing Director is thereby constituted the principal executive officer of the Authority.

(3) On and after the appointed day, a reference in any other law or document, however expressed, to the General Manager, or the Commissioner, of the Metropolitan Water Supply, Sewerage and Drainage Board as constituted under the Metropolitan Water Supply, Sewerage, and Drainage Act 1909 or to the Managing Director of the Metropolitan Water Authority as constituted under the Metropolitan Water Authority Act 1982 may, unless the context requires otherwise, be read and construed as a reference to the Managing Director.

24. (1) The Managing Director shall be appointed by the Governor for a term not exceeding 7 years and shall be eligible for re-appointment.

Terms of
appointment
of Managing
Director.

(2) The conditions of service of the Managing Director shall be such as the Governor, having regard to the recommendation of the Public Service Board constituted under the Public Service Act 1978, determines.

(3) Subject to any determination that may be made under the Salaries and Allowances Act 1975, the Managing Director shall be paid such remuneration and allowances as are from time to time determined by the Governor.

(4) If a person appointed to the office of Managing Director—

- (a) is or becomes an undischarged bankrupt or a person whose property is subject to an order or arrangement under the laws relating to bankruptcy;
- (b) becomes, in the opinion of the Minister, permanently incapable of performing the duties of his office;
- (c) is removed from office by the Governor on the grounds of neglect of duty, misbehaviour or incompetence; or
- (d) resigns his office by writing under his hand addressed to the Minister,

the office of Managing Director becomes vacant.

Acting
Managing
Director.

25. (1) Where—

- (a) the Managing Director is absent or temporarily incapable of fulfilling his duties as Managing Director; or

(b) the office of Managing Director is vacant, the Minister may appoint an officer of the Authority to act in the office of Managing Director during that absence or incapacity, or until the vacancy is filled, as the case requires, and any person so appointed has, while his appointment subsists, all the powers, functions and duties of the Managing Director.

(2) Any reference in this Act to the Managing Director shall be construed as including a reference to a person appointed by the Minister to act in the office of Managing Director during any absence, temporary incapacity or casual vacancy.

26. (1) The Authority may, with the approval of the Minister concerned and upon such terms and conditions as may be mutually arranged with that Minister, for the purposes of this Act or any relevant Act make use, either full time or part time, of the services of any person employed in the Public Service of the State or otherwise in the service of the Crown or of an instrumentality of the Crown in right of the State, and may by arrangement with the Minister charged with the administration of any other Act make available for the purposes of that other Act the services of any member of the staff of the Authority.

Assistance by or to the Public Service, and other administrative arrangements.

(2) The Authority may from time to time engage under contract for services such professional and technical or other assistance as may be necessary to enable the Authority to carry out effectively its functions under this Act or any relevant Act.

(3) The Authority may enter into arrangements with—

- (a) a Minister of the Crown of any State or territory of the Commonwealth, a Minister of State of the Commonwealth, a department or an instrumentality of the Commonwealth or any State or territory of the Commonwealth;
- (b) a university or other tertiary institution;
or
- (c) any other body or person having relevant specialised knowledge, experience, or facilities,

with respect to the conduct of any investigation, study or research that may be necessary or desirable for the purposes of the functions of the Authority.

(4) Any authorised officer of the Authority may, for the purposes of this Act or any other Act administered by the Authority, search and obtain copies of any public register maintained at the Office of Titles and Registry of Deeds, or any office of the Department of Lands and Surveys, the Department of Mines, or the Office of the Commissioner for Corporate Affairs, without payment of any fee.

Officers and
staff of the
Authority.

27. (1) There may be appointed under and subject to the Public Service Act 1978 such officers and other staff as are necessary to enable the Authority to carry out its functions.

(2) Notwithstanding subsection (1), the Authority may appoint and dismiss such temporary or casual staff as it thinks fit on such terms and conditions as the Authority determines, subject to the provisions of any current relevant award made under the Industrial Arbitration Act 1979.

Division 8.—Future Staffing Arrangements.

Authority
to appoint
certain staff.

28. (1) In this section—

“designated office” means an office in the employment of the Authority designated by the Governor from time to time by Order in Council.

(2) On and after the appointed day, after consultation with the Public Service Board constituted under the Public Service Act 1978, the Authority may—

- (a) appoint persons to hold designated offices for the purposes of this Act or any relevant Act administered by the Authority; and
- (b) determine, subject to the Salaries and Allowances Act 1975 or any relevant award under the Industrial Arbitration Act 1979

or any relevant award or agreement under the Public Service Arbitration Act 1966, the remuneration and other terms and conditions of service of persons so appointed.

(3) Subject to any relevant appeal which may lie under the Public Service Arbitration Act 1966, the Authority may impose disciplinary measures on persons employed pursuant to this section.

(4) A person who, immediately prior to his appointment to a designated office, occupied an office under the Public Service Act 1978 shall continue to retain all existing and accruing rights, including rights under the Superannuation and Family Benefits Act 1938, as if the service as the holder of a designated office were service as an officer under the Public Service Act 1978.

*Division 9.—Activities carried out jointly
with Councils and Others.*

29. (1) The Authority may from time to time enter into and give effect to agreements providing for co-ordinated measures to be taken jointly with other persons or bodies relating to any matter in respect of which the Authority is authorised to exercise powers under this Act or a relevant Act.

Agreements
for joint
action.

(2) It shall be lawful for a council to enter into such an agreement pursuant to section 328 of the Local Government Act 1960 as though the Authority were a council having the care, control and management of the work or service in question.

(3) The Authority may at the request of a local authority or the owner of any land undertake or contribute towards the cost of any work which appears to the Authority should be done for the purposes of this Act or a relevant Act, and may also advise on or supervise any such work if invited so to do.

Council may
act for
Authority.

30. (1) Where the Authority desires—

- (a) to delegate to a council any function or power pursuant to section 18; or
- (b) that a council should carry out or maintain works or provide or maintain services or otherwise act on behalf of the Authority,

a council is not required to accept or give effect to the delegation or to act on behalf of the Authority unless there is, or otherwise than in accordance with, an agreement entered into between the Authority and the council.

(2) It shall be lawful for a council to carry out, provide or maintain works or services or otherwise act on behalf of the Authority, both in relation to its own district and in relation to any other area in which pursuant to the Local Government Act 1960 it is authorised to carry out works or provide services.

Functions
may be
undertaken
by councils
jointly.

31. Where any activities of the Authority may be of significance in the area of more than one council—

- (a) the implementation of the requirements of the Authority pursuant to this Act or a relevant Act is a function which may be designated in the constitution agreement of a regional council constituted under Part XXIX of the Local Government Act 1960;
- (b) the works and services necessary to give effect to those requirements within the area of its municipality are works and services which each of the respective councils is authorised to carry out, provide and maintain, pursuant to the Local Government Act 1960;
- (c) if between two or more councils there arises a difference to which section 324 or section 676 of the Local Government Act 1960

applies the Authority may make representations to the Minister charged with the administration of the Local Government Act 1960 or any court and may attend and be heard at any proceedings or hearing;

and

- (d) the provisions of section 32 apply to any question, difference or dispute arising or about to arise between two or more councils in relation to functions to which this Act applies as if it were a question arising between the respective councils and the Authority in relation to which the Authority was authorised to make representations to the Governor, and subsection (8) of section 328 of the Local Government Act 1960 shall be construed accordingly.

32. (1) Where in relation to a provision of this Act or a relevant Act any question, difference, or dispute arises, or may arise, between the Authority and any government department or local authority as to the rights, powers or authority of, or the discharge of any duty by, the Authority, or as to their respective functions or interest, then—

The Authority, government departments and local authorities.

- (a) where the matter relates to a government department—the Minister charged with the administration of that government department may consult with the Minister;
- (b) where the matter relates to a local authority—the local authority shall refer the matter to the Minister charged with the administration of the Act by which that local authority is vested with the right, power or authority, or which imposes the duty, as the case may be, who may consult with the Minister,

and where the Ministers so agree after such consultation the Minister shall give to the Authority such directions as result from the consultation, but where no such consultation is concluded or if the

Ministers cannot agree as to the matter the matter may be finally and conclusively determined by the Governor and effect shall be given to any such determination.

(2) The Governor may finally and conclusively determine any question, difference or dispute arising or about to arise in relation to a provision of this Act or a relevant Act between the Authority and any government department or local authority with respect to the exercise of any right, power, or authority or the discharge of any duty whether or not referred to him under subsection (1) and whether or not the Ministers had purported to agree pursuant to that subsection, and effect shall be given to any such determination.

Division 10.—Rules, By-laws and Regulations.

Authority
may make
rules.

33. (1) Subject to this Act and to any relevant Act, and to the Public Service Act 1978 or any award or industrial agreement, the Authority may make rules for or with respect to the powers and duties, conditions of employment, control, supervision, safety, guidance, regulation and discipline, retirement benefits, and welfare of its officers and other staff or trainees.

(2) Subject to any direction given by the Minister, the Authority may make rules for or with respect to—

- (a) the conduct of the proceedings of the Board and of any committee of the Authority; and
- (b) any other administrative matters relating to the management of the affairs or the conduct of the business of the Authority,

where there is no provision, or not sufficient provision, in this Act.

(3) Rules made by the Authority—

- (a) shall be made by resolution of the Board under the Seal of the Authority;
- (b) shall be open for inspection at the office of the Managing Director; and
- (c) are not subject to the provisions of section 36 of the Interpretation Act 1918.

34. (1) The Authority may, subject to any approval required for the purposes of section 55 and to the approval of the Minister, by resolution of the Board under the Seal of the Authority, make by-laws for or in respect of all matters that are required or permitted, or are necessary or convenient, to be prescribed for the purposes of this Act or any relevant Act.

Authority
may make
by-laws.

(2) By-laws made by the Authority under this Act shall be subject to any regulations made under this Act or a relevant Act and where any such by-law is in any respect inconsistent with or repugnant to any such regulation the regulation shall prevail and the by-law shall be read and be construed and have effect accordingly.

35. (1) Where the Board delegates to a council any function or power of the Authority or the Board under section 18 the council may make by-laws pursuant to this section, to have effect in its district and in any other area in which by the Local Government Act 1960 it is authorised to carry out works or provide services, being by-laws which are consistent with the directions of, and design criteria furnished by, the Authority.

Council
may make
by-laws.

(2) Where, and to the extent that, there is inconsistency between the provisions of a by-law made under this section and a by-law made by the same or any other council under any other Act the provisions of the by-law made under this section shall prevail.

(3) The Authority may cause to be prepared and published in the *Government Gazette* draft model by-laws which a council may adopt, either wholly or in part or with specified modifications, for the purposes of this section.

(4) Where a draft model by-law is adopted, whether wholly or in part or with modifications, by a council that by-law as so adopted shall for all purposes have effect as if it were made by the council.

(5) Where a council proposes to make a by-law, whether by adoption of a model by-law or otherwise, the council shall—

- (a) cause a draft of the proposed by-law to be prepared, or determine the draft model by-law to be adopted whether it is to be adopted wholly or in part or with specified modifications proposed;
- (b) resolve that the by-law be made, setting out in the resolution whether any draft model by-law is to be adopted wholly or in part or with specified modifications;
- (c) record the resolution in, or substantially in, the form required under the Local Government Act 1960 for the making or adoption of a by-law, as the case may require, and cause the seal of the council to be affixed to that form;
- (d) cause notice of the intention to submit the proposed by-law to the Authority for confirmation by the Governor to be published once in a newspaper circulating in the area to which the proposed by-law is intended to apply and cause to be stated in the notice the purport of the proposed by-law, and of the modifications, if any, where a draft model by-law or part of a draft model by-law is to be adopted, and notification that the full text of the proposed by-law may be inspected by members of the public free of charge at the office of the council;

- (e) for a period of 21 days commencing on the day of the publication of the notice in a newspaper pursuant to the requirements of paragraph (d) cause—
 - (i) a copy of that notice to be kept posted on the official notice board of the council; and
 - (ii) a copy of the full text of the proposed by-law to be available free of charge for public inspection during office hours at the office of the council.

(6) The notice of the intention to submit the proposed by-law to the Authority for confirmation by the Governor published in a newspaper in accordance with paragraph (d) of subsection (5) and the notice posted on the official notice board of that council in accordance with paragraph (e) of that subsection shall in each case include a provision making known to the public that objections to and representations in respect of the proposed by-law may be made to the council during the period of 21 days commencing on the date of the publication and in the manner specified in the notice.

(7) Within the period of 21 days commencing on the date of the publication and in the manner so specified, any person or body that wishes to make an objection or representation to the council in respect of the proposed by-law may submit that objection or representation with all relevant accompanying documents or information to the council.

(8) The council shall consider any objection or representation made under subsection (7) and, if the council thereafter still desires to make the proposed by-law in the form published, cause the sealed record of the resolution mentioned in paragraph (c) of subsection (5) to be delivered to the Authority together with a report on the objections and representations made in respect of the proposal.

(9) The Authority, if satisfied that the council has complied with the requirements of this section and that the proposed by-law is necessary and desirable, shall cause the sealed record to be presented to the Governor and the Governor may thereupon—

(a) confirm the by-law; or

(b) decline to confirm the by-law,
as he thinks fit.

(10) If the Governor confirms the by-law the Authority shall cause the full text of the by-law to be published in the *Government Gazette* and to be laid before both Houses of Parliament.

(11) The provisions of the Interpretation Act 1918 in general, and those of sections 36 and 38 of that Act in particular, apply in respect of by-laws made and the making of by-laws pursuant to this section.

(12) A by-law made pursuant to this section may make provision for the imposition of penalties not exceeding \$500 in respect of any offence constituted by a breach of the by-law with or without provision, where the offence is a continuing one, for a further penalty of \$50 for every day or part of a day during which the offence continues after notice of the offence has been given by the council to the offender.

(13) Section 264 of the Local Government Act 1960 applies to a by-law made pursuant to this section as if it were made under that Act.

(14) A council shall cause—

(a) copies of the by-laws which are made by it pursuant to this section to be available for sale at a price not exceeding the cost price for each copy, as determined by the council, to persons applying for them at the office of the council; and

(b) copies of those by-laws to be available for inspection, free of charge, during office hours, at the office of the council.

(15) In this section, “specified” means specified in the resolution or by-law in relation to which the term is used.

36. (1) Regulations or by-laws made for the purposes of this Act or a relevant Act may be so made—

Regulations
and
by-laws,
generally.

(a) as to apply—

- (i) generally, or in a specified class of case or in a specified case;
- (ii) at all times, or at specified times or at a specified time; and
- (iii) throughout the State, or in specified parts of the State or in a specified place;

(b) as to adopt, by reference to the text as amended and for the time being in force at the time of adoption of the by-law, unless a particular text is otherwise specified—

- (i) such rules, regulations, codes, instructions or other subordinate legislation made, determined or issued under any other Act, or under any Act of the Parliament of the Commonwealth or of the Parliament of the United Kingdom; or
- (ii) such standards, rules, codes or specifications issued by the Standards Association of Australia, the British Standards Institution, or other specified body,

either wholly or in part or with modifications, as are specified.

(c) as to provide that where by reason of unavailability of materials or other reason that the Authority considers valid any

requirement imposed by the Authority cannot be conformed to, the Authority may dispense with that requirement and in lieu authorise in writing in any particular case the use of materials or any other matters which it considers to be appropriate;

- (d) as to provide that, in a specified case or a specified class of case, whether on specified conditions or unconditionally, a person or thing or a class of persons or things, may be exempted from the provisions of those regulations or by-laws either wholly or to such extent as is specified; or
- (e) as to require a matter affected by them to be in accordance with a specified standard, specification or requirement or to be as approved by, or to the satisfaction of, a specified person or body or a specified class of person or body, or so as to confer on a specified person or body or a specified class of person or body a discretionary authority.

(2) Where regulations or by-laws, or any provision of regulations or by-laws, made under and for the purposes of a relevant Act are necessary or convenient for other purposes under this Act regulations or by-laws made under this Act may adopt, by reference to the text as from time to time amended and for the time being in force, any such regulation, by-law or provision, either wholly or in part or with modifications, as may be specified.

(3) The Governor, a Minister or a statutory authority may, for the purposes of the Authority under this Act, exercise a power conferred by a relevant Act to make, or to grant dispensation from the observance of, regulations or by-laws under that Act as though the power to do so had been conferred by the relevant Act.

(4) Regulations or by-laws made under this Act—

- (a) may provide that contravention or failure to comply constitutes an offence;

- (b) may make provision for penalties not exceeding \$2 000 for any such offence and if the offence is a continuing one a further penalty not exceeding \$200 for every day or part of a day during which the offence continues after notice of the offence has been given by or on behalf of the Authority to the offender;
- (c) may provide that, in addition to the penalty, any expense incurred by the Authority in consequence of the offence shall be payable by the offender;
- (d) may prescribe that fees, charges, rates and interest shall be payable to the Authority in relation to specified matters, and make provision for the remission or refund of moneys otherwise payable and for the giving of discounts or concessions, and as to the periods of time to be applicable to specified payments or in specified circumstances; and
- (e) may prescribe forms and other documents for the purposes of this Act or a relevant Act, and for the circumstances in which they are required and the manner in which information required is to be provided or verified.

(5) In this section, "specified" means specified in the regulation or by-law in relation to which the term is used.

37. Regulations may be made under this Act for or in respect of all matters that are required or permitted, or are necessary or convenient, to be prescribed for the purposes of this Act or any relevant Act or to facilitate the operations of the Authority. Regulations.

38. (1) Where any by-law has been or is made by a council under the Local Government Act 1960 or any other Act, or any town planning scheme has Revocation or amendment of by-laws and of town planning schemes.

been or is made under the Town Planning and Development Act 1928, and that by-law or scheme, or any provision of such a by-law or scheme, is on the advice of the Authority determined by the Governor to be repugnant to or inconsistent with the provisions of this Act or a relevant Act the Governor may, by Order published in the *Government Gazette*, revoke or amend that by-law or scheme, or the relevant provision, in so far as it is so repugnant or inconsistent and effect shall be given to any such revocation or amendment but without affecting the validity, or curing the invalidity, of any thing done, or of the omission of any thing, in the meantime.

(2) The Minister shall cause a copy of any Order published under this section to be laid before each House of Parliament within 6 sitting days of that House next following the publication, and if either House of Parliament passes a resolution of which notice has been given within the first 14 sitting days of that House after the copy of an Order under this section has been laid before that House that the Order be disallowed, the Order thereupon ceases to have effect, but the disallowance of the Order does not affect or invalidate anything done in good faith before the passing of the resolution.

PART III—FINANCIAL PROVISIONS.

Division 1.—Generally.

Funds of the
Authority.

39. (1) Subject to this Act and any relevant Act, in so far as is practicable the Authority shall be responsible for managing its own finances.

(2) The moneys available to the Authority for the purposes of this Act or any relevant Act are—

- (a) moneys from time to time appropriated by Parliament for the purpose;
- (b) moneys received by the Authority, pursuant to this Act or any relevant Act, by way of rates, charges, fees, interest or payment for works or services;

- (c) moneys derived from the disposal of or dealing with real or personal property vested in or acquired by the Authority, or derived as the income of investment by the Authority or otherwise in the exercise of its functions;
- (d) donations or contributions made available to the Authority, whether permanently or on a temporary basis, from Commonwealth sources or elsewhere;
- (e) moneys borrowed under this Act or a relevant Act, or lent to the Authority by the Treasurer pursuant to the Borrowings for Authorities Act 1981, or derived from financial accommodation entered into under and subject to the provisions of this Act or a relevant Act; and
- (f) such moneys as may be advanced by the Treasurer in any case where the moneys otherwise standing to the credit of the Account would be insufficient,

and those moneys shall be paid into and placed to the credit of an account to be called the "Water Authority of Western Australia Account" maintained at the Treasury or in such bank or banks as the Treasurer may approve under subsection (7).

(3) The Authority shall pay into the Account all moneys received by the Authority, and all expenditure incurred by the Authority shall be drawn from that Account.

(4) The moneys from time to time in the Account (other than moneys in relation to which the Authority is a trustee) may be applied by the Authority to meet—

- (a) expenditure incurred in connection with the establishment or provision of any works vested in or to be carried out by or for the Authority under this Act or any relevant Act;

- (b) the cost of managing, operating, maintaining or repairing works and services vested in or provided by or for the Authority; and
- (c) all other expenditure lawfully incurred by the Authority in the exercise of its powers or the discharge of its duties or obligations under this Act or any relevant Act including loan repayments, interest and sinking fund contributions.

(5) The Authority shall pay to the Treasurer such amounts, if any, as are fixed by the Treasurer—

- (a) as the interest and sinking fund contributions for the year in respect of such proportion of the General Loan Fund as is, or have been, applied for purposes to which the functions of the Authority relate; and
- (b) for the use by the Authority of government buildings or other government property, and for services rendered by any officers of the Public Service or any government department.

(6) With the approval of the Treasurer and subject to the Public Moneys Investment Act 1961, the Authority may invest money for the time being in securities within the meaning of that Act.

(7) The Authority may with the approval of the Treasurer, open, maintain and operate accounts in the name of the Authority, in the State or elsewhere, with such bank or banks and for such purposes as the Treasurer may approve.

(8) The Authority may—

- (a) provide credit (including credit to consumers in the normal course of business) for;
- (b) arrange financial accommodation on behalf of; or

(c) lend or advance money to,

any person, to be used for the purposes of this Act or a relevant Act, whether or not security is to be furnished to the Authority.

40. (1) Notwithstanding any other Act or law, where the Authority is, by the operation of any Order made under section 4 and a notice published under section 8, charged with the duty of administering the functions of any statutory authority—

Pooling and
use of
moneys, etc.

- (a) all moneys received or receivable by or on behalf of that statutory authority or standing to the credit of that statutory authority in any other account, whether an account maintained in the Treasury or elsewhere, shall become payable to, and may be transferred or paid into, the Account;
- (b) all moneys requiring to be disbursed to meet any engagement, obligation or liability of that statutory authority may be paid out of the Account; and
- (c) save for the requirement to maintain accounts and records showing the sources from and purposes for which moneys are received and the manner in which moneys are used, the moneys received into or paid out of the Account shall be taken to have been receivable, and may be utilised or otherwise dealt with, for the general purposes of the Authority.

(2) All moneys, credit or other financial accommodation received by the Authority may be used by the Authority for any purpose of this Act or a relevant Act, but not otherwise.

41. (1) The Authority shall cause annual estimates of the receipts and payments of the Authority relating to its administration of this Act and its functions under any other Act to be drawn

Estimates.

up and submitted to the Minister who, if he approves the estimates, shall cause them to be submitted to the Treasurer not later than such date as is specified by the Treasurer.

(2) For the purpose of facilitating the accounting procedures of the Treasurer and the preparation of Treasury estimates, the Authority shall furnish to the Treasurer within the period specified by him such information relating to the estimates, accounts and financial affairs of the Authority as the Treasurer may require under such headings and in such manner as he may direct.

Division 2.—Accounting procedures.

Duty to account.

42. The Authority shall, subject to this Act, be responsible for its own accounting procedures and records.

Provisions and reserves.

43. The Authority may establish and operate in its accounting records provisions, reserve accounts and reserve funds for such purposes and within such limits as the Treasurer approves.

Accounts and records.

44. (1) The Authority shall cause true and fair accounts and records of its affairs and transactions to be kept and maintained—

- (a) in a manner authorised by the Board, so as to show the sources from which, and the functions and purposes for which, moneys are received or utilised; and
- (b) under such headings and in such manner and form as the Treasurer may from time to time approve or require.

(2) The Authority shall cause to be done whatsoever may be necessary to ensure that all payments by or on behalf of the Authority are properly authorised and correctly made out of the Account, and that adequate control is maintained over the assets of, or in the custody of, the Authority and the incurring of liabilities by the Authority.

45. The accounting records kept by the Authority shall be open to the inspection of the Auditor General and any person authorised by him to inspect the same, and copies or extracts may be taken therefrom for that purpose.

Accounting records may be inspected.

46. The financial year of the Authority in relation to the operations carried on by it shall begin on 1 July and end on 30 June in the next following year.

Financial year.

47. (1) The Authority shall in every year cause to be prepared and submitted to the Auditor General—

Accounts to be audited.

(a) from the accounts and records, a full, true and fair—

(i) balance sheet of the assets and liabilities; and

(ii) profit and loss statement, and

(b) such other statements as the Treasurer may from time to time direct,

in such form as the Treasurer may approve, so that the balance sheet and statements shall set out the financial results of the operations of the Authority for the year.

(2) The Auditor General shall inspect and audit the accounts and records of the financial transactions of the Authority, including the Account and shall forthwith draw the attention of the Authority and, if he thinks fit, the Minister to any irregularity disclosed by the audit that is, in the opinion of the Auditor General, of sufficient importance to justify so doing.

(3) The Auditor General shall examine the financial statements submitted to him for audit and shall report to the Authority, and, if he thinks fit, to the Minister as to—

- (a) whether in his opinion the statements are based on proper accounts and records;
- (b) whether in his opinion the accounts and records are properly drawn up in accordance with applicable and generally accepted accounting standards so as to present a true and fair view of—
 - (i) the transactions for the period under review; and
 - (ii) the financial position at the end of that period;
- (c) whether in his opinion the controls exercised by the Authority are sufficiently adequate to provide reasonable assurance that the receipt, expenditure and investment of moneys and acquisition and disposal of assets and incurring of liabilities have been in accordance with this Act and any relevant Act; and
- (d) such other matters arising out of the accounts, records or statements as the Auditor General considers should be reported.

(4) The Auditor General shall in respect of the Account and the accounting records of the Authority generally, including the records of any statutory authority the former functions of which are administered by the Authority, have all the powers conferred on him by the Audit Act 1904 in relation to public accounts.

Annual
report.

48. As soon as is practicable after the financial year, the Authority shall prepare an annual report of its proceedings and operations during that year, which report, together with copies of the financial statements as audited by the Auditor General and his report thereon, shall be laid by the Minister before each of the Houses of Parliament as soon as practicable after receipt of the report of the Auditor General.

Division 3.—Borrowing and financial accommodation.

49. (1) Subject to this Act, the Authority has power—

Power to borrow etc., generally.

- (a) to borrow, or re-borrow, moneys;
- (b) to obtain credit; or
- (c) to arrange for financial accommodation to be extended to the Authority in ways additional to or other than borrowing moneys or obtaining credit,

and may give or arrange security therefor, but so that the powers conferred by this subsection are exercisable by the Authority only for the purposes of this Act or a relevant Act and not otherwise.

(2) The Treasurer may, from time to time, give directions to the Authority in relation to the exercise of the powers, or any specified power, conferred on the Authority by subsection (1), including a direction that the Authority shall not exercise a power without the prior written approval of the Treasurer (which may be given upon, or subject to, such terms or conditions as the Treasurer thinks fit), and the Authority shall give effect to any such direction.

(3) Any moneys borrowed by, credit obtained by, or financial accommodation extended to the Authority under this section may be raised or entered into, either in the State or elsewhere, as one loan or transaction or as several loans or transactions.

(4) The provisions of the Money Lenders Act 1912 do not apply to, and shall be deemed never to have applied to, or in relation to, any loan, within the meaning of section 2 of that Act, made to or by the Authority or a statutory authority the functions of which are administered by the Authority, whether made before or after the coming into operation of this section, or to any contract or security relating to such a loan.

Power to
make
provision to
pay off
loans.

50. For the purpose of making provision to pay off either the whole or any part of the moneys comprised in a loan raised by the Authority or a statutory authority the functions of which are administered by the Authority, the Authority may convert or re-negotiate that loan or otherwise borrow moneys in accordance with this Act before the loan or that part of it becomes re-payable.

Borrowing
power, from
Treasury
sources.

51. (1) The Treasurer, who is hereby authorised to grant the approval, may make, and the Authority may borrow, from the Public Account, out of moneys appropriated by Parliament for that purpose, advances of such amounts and for such reasons as the Treasurer approves, on such conditions as to repayment and payment of interest as the Treasurer imposes.

(2) Where an advance is made under this section—

(a) the Authority shall repay the amount of the advance; and

(b) the Authority shall pay interest,

in accordance with the conditions imposed under subsection (1) and shall comply with any other conditions so imposed.

Specific
State
guarantees.

52. (1) Subject to the approval of the Governor, the Treasurer on behalf of the State may guarantee the performance by the Authority, in the State or elsewhere, of any obligation of the Authority, however or wherever arising, entered into or to be entered into by the Authority.

(2) An instrument of guarantee given pursuant to subsection (1) shall be executed by—

(a) the Treasurer; or

(b) a person authorised—

(i) by the Treasurer in writing; or

(ii) by operation of law.

(3) The liability of the State pursuant to a guarantee under this section shall not be affected or discharged by the granting to the Authority of any time or other indulgence or consideration, or by reason of any transaction that may take place between the Authority and any person having the benefit of the guarantee, or by any other act or omission of the person having the benefit of the guarantee, whereby the liability of the State as guarantor would but for this provision have been affected or discharged.

(4) The due performance of a guarantee given by the Treasurer on behalf of the State under the authority of this Act is hereby authorised, and the due payment of moneys payable thereunder with all interest thereon shall be payable out of the Consolidated Revenue Fund which is hereby to the extent necessary appropriated accordingly, and any sums received or recovered by the Treasurer from the Authority or otherwise in respect of payment so made shall be paid into the Consolidated Revenue Fund.

(5) By virtue of this subsection any sum paid by the Treasurer under any guarantee given by him on behalf of the State under this Act, and any obligation of the Authority arising pursuant to an advance made under section 51 constitutes a charge upon the Account and a floating charge upon the revenue and assets of the Authority, and that Account, such revenue and those assets are charged with the performance and observance by the Authority of the terms and the conditions which the Treasurer may have imposed or approved in relation to that guarantee or that advance.

53. (1) The Treasurer may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him delegate any function or power that is conferred on the Treasurer by this Act, other than this power of delegation.

Delegation by
the Treasurer,
and auth-
orisation by
the Under
Treasurer.

(2) Where a function or power has been delegated under subsection (1) to the Under Treasurer, the Under Treasurer may authorise another officer of the Treasury to perform the function or exercise the power so delegated.

(3) A delegation under subsection (1) or an authorisation under subsection (2) may be to —

(a) a specified person; or

(b) the person for the time being holding a specified office.

(4) Any act or thing done in the performance of a function or the exercise of a power by a person to whom that function or that power has been delegated by the Treasurer under subsection (1), or by an officer authorised by the Under Treasurer under subsection (2) to perform that function or exercise that power, has the same force and effect as if it had been done by the Treasurer.

(5) Where the performance of a function or the exercise of a power by the Treasurer is dependent upon the opinion, belief or state of mind of the Treasurer in relation to a matter and that function or power has been delegated under subsection (1), that function or power may be performed or exercised by the delegate, or by an officer authorised by the Under Treasurer under subsection (2), upon the opinion, belief or state of mind of the delegate or of the authorised officer, as the case may be, in relation to that matter.

(6) Subject to subsection (8), a delegation under subsection (1) does not prevent the performance of a function or the exercise of a power by the Treasurer, and may be revoked or varied.

(7) Subject to subsection (8), the giving of an authorisation under subsection (2) does not prevent the performance of a function or the exercise of a power by the Under Treasurer, and may be revoked or varied.

(8) The authority of a person to whom a power is delegated or an authorisation is given under this section shall be deemed, as between the person delegating that power or giving the authorisation and a person dealing with him, to have continued during the period (if any) specified in the instrument delegating the power or conferring the authority or if no period is so specified, until notice of the revocation or variation of the delegation or authorisation was given to the person dealing with him.

(9) Where a person purports to perform a function or exercise a power conferred or expressed to be conferred on the Treasurer under this Act, it shall be presumed, unless the contrary is established, that the person is duly authorised by a delegation under subsection (1), or by an authorisation under subsection (2) given pursuant to such a delegation, to perform the function or exercise the power.

(10) A document purporting to be signed for the purposes of this Act by a person as a delegate of the Treasurer shall be deemed, unless the contrary is established, to have been signed by him as such a delegate and to have been so signed pursuant to the performance of a function or the exercise of a power duly delegated by the Treasurer.

(11) A document purporting to be signed for the purposes of this Act by an officer of the Treasury authorised by the Under Treasurer to sign the document shall be deemed, unless the contrary is established, to have been signed by such an officer so authorised and to have been so signed pursuant to the performance of a function or the exercise of a power that he is duly authorised by the Under Treasurer to perform or exercise.

Division 4.—Debentures and stock.

54. (1) Where—

- (a) the Under Treasurer certifies that the proposed borrowing is a transaction which is not to be dealt with pursuant to the Borrowings for Authorities Act 1981; and

Borrowing on
debentures,
stock etc.

(b) a proposal in writing showing—

- (i) the term and particulars of the proposed issue;
- (ii) the rate of interest to be paid on that issue;
- (iii) the purposes to which the money proposed to be raised is to be applied; and
- (iv) the manner in which any moneys borrowed are to be repaid,

is submitted by the Authority with the recommendation of the Minister to, and is approved by, the Treasurer, the Governor, by Order in Council, may authorise the Authority to borrow or re-borrow moneys required by the Authority for the purposes of this Act or a relevant Act by the creation and issue of debt paper in a form approved by the Treasurer and to pay the expenses incurred in and in relation to the issue.

(2) The Treasurer may approve the creation and issue by the Authority, pursuant to subsection (1), of debt paper in any form that could have been created by the Treasurer pursuant to the Borrowings for Authorities Act 1981, and a reference to “debt paper” in this Division shall be construed accordingly.

(3) Subject to subsection (1), the Authority may—

- (a) issue debt paper in exchange for any debentures or inscribed stock issued in respect of moneys previously borrowed and not repaid by a statutory authority the functions of which are administered by the Authority; and
- (b) effect any conversion authorised by paragraph (a) either by arrangement with the holder of an existing debenture or

registered owner of inscribed stock, or by the purchase of the debenture or inscribed stock out of the money raised by the issue of debt paper, or partly in the one way and partly in the other.

(4) The due repayment of the principal moneys and the payment of all interest secured by debt paper issued by the Authority or by debentures or inscribed stock created or issued by a statutory authority the functions of which are administered by the Authority is hereby guaranteed by the Treasurer on behalf of the State.

(5) Inscribed stock may be issued pursuant to this section from a registry established by or on behalf of the Authority in the State and not elsewhere and may be dealt with in any such registry, but immediately following such issue or thereafter may be transferred to and dealt with in a registry so established elsewhere, in accordance with the provisions of by-laws made pursuant to section 55.

(6) Debt paper issued pursuant to this section shall—

- (a) be in a form and bear interest at a rate approved by the Treasurer;
- (b) be redeemable on such date and at such place as the Authority may, with the approval of the Treasurer determine;
- (c) be liable, with the consent of the holder or the registered owner, as the case may be, to be paid off at any time before the due date for repayment; and
- (d) rank *pari passu* in point of charge without any preference or priority over any other debt paper issued by the Authority.

(7) Interest secured by any debt paper issued pursuant to this section shall be payable in such manner, and at such times and places, as is specified in that debt paper or if not so specified as may be prescribed pursuant to the by-laws.

(8) The Authority may, and shall if the Treasurer so directs set aside from time to time, by way of a sinking fund for the purpose of redeeming any loans raised by the Authority, or by a statutory authority the functions of which are administered by the Authority, an amount calculated by reference to a rate approved by the Treasurer.

(9) The Authority may continue, or cause to be continued on a system approved by the Authority, any register of debentures or registry recording the inscription of stock and matters relating thereto kept by a statutory authority the function of which is administered by the Authority and utilise that register or registry also for the purposes of debt paper issued by the Authority, and may appoint such registrars and agents and establish such marking facilities as may be necessary for the conduct of transactions relating thereto in the State or elsewhere, and shall, as soon as practicable after the issue of any debt paper pursuant to this Act, cause to be made in an appropriate register a record specifying the number, date, amount, holder and other prescribed information relating to that debt paper.

(10) Inscribed stock shall be transferable in the manner prescribed by the by-laws from one person to another by instrument in the form so prescribed and not otherwise.

(11) No notice of any trust, express, implied or constructive, shall be received by the Authority or by an officer of the Authority in relation to any debenture, inscribed stock or other debt paper, and the Authority or an officer of the Authority shall not be bound to see to the execution of any trust to which it may be subject.

(12) The receipt of the person in whose name debt paper stands in the register, or if it stands in the names of more persons than one the receipt of one of the persons named in the register, shall be a sufficient discharge of the Authority for any interest payable in respect of that debt paper, notwithstanding any trusts to which it may then be

subject and whether or not the Authority has had notice of the trusts, and the Authority shall not be bound to see to the application of the money paid upon such receipt.

(13) If debt paper is held in joint names and one or more of the registered owners dies, becomes bankrupt, insolvent or otherwise legally incapable, the receipt of any one of the other joint owners or survivors shall be a sufficient discharge of the Authority for any interest payable in respect of the debt paper, notwithstanding that a transmission has not been registered as required by this Act.

(14) The transmission of any debt paper effected pursuant to a statutory declaration in a manner authorised by the by-laws shall be a sufficient discharge of the Authority against the claims of any other person in relation thereto.

(15) A person may by power of attorney under his hand and seal appoint some other person to be his attorney for any purpose in relation to debt paper (including an application for conversion or to receive interest or redemption money) and any such power of attorney shall be valid and effectual for all purposes therein mentioned until notice of its revocation or of the death, bankruptcy, insolvency, or unsoundness of mind of the donor of the power has been received by the registrar at the registry.

(16) A register kept for the purposes of this section, or a copy or extract therefrom certified to be true by the officer in whose custody the register is kept, shall be admissible as and is evidence of any matters required or authorised by or under this Act or a relevant Act to be inserted in the register.

(17) A person advancing money to the Authority and receiving in consideration of the advance debt paper issued under this Act shall not be bound to inquire into the application of the money advanced or be in any way responsible for the non-application or misapplication thereof.

By-laws as
to debt
paper.

55. By-laws made, with the approval of the Treasurer, by the Authority under this Act or a relevant Act, may make provision—

- (a) as to the rights of the bearer of any debt paper issued under this Act, or that Act, as the case may be, and as to the payment of interest coupons;
- (b) for the inspection of, and the supply of copies or extracts from, any register, the replacement of lost or defaced debt paper, and the destruction of discharged debt paper;
- (c) for the inscription of stock and as to the registration of inscribed stock and the manner of dealing with debt paper, including matters relating to transfers and transmission otherwise than on transfer, as to the tendering and marking of transfers for the purpose of giving security or otherwise, and as to the closure of transfer books and ledgers;
- (d) as to the fees or charges payable in respect of dealings with debt paper;
- (e) for the Authority to purchase its debt paper, or any debentures or inscribed stock issued or created by a statutory authority, otherwise than for the purposes of redemption, and to re-issue, sell, or otherwise deal therein; and
- (f) generally, for the purposes of this Division.

Trustee
investments
in
debentures,
etc.

56. (1) Debt paper issued by the Authority or debentures or inscribed stock created or issued by a statutory authority the functions of which are administered by the Authority shall—

- (a) be securities authorised by the laws relating to the investment of trust moneys; and

- (b) have the status of Government securities within the meaning of any Act in force for the time being relating to the investment powers of persons, friendly societies, or other financial institutions.

(2) A trustee unless expressly forbidden by the instrument, if any, creating the trust may invest trust funds in his hands in such debt paper, debentures or inscribed stock.

(3) Such debt paper, debentures or inscribed stock shall be a lawful investment for moneys which a body corporate is authorised or directed to invest, in addition to any other investments expressly authorised for the investment of such moneys.

(4) A trustee or body corporate may pursuant to this Act convert such debt paper, debentures or stock in his or its hands into any other form of debt paper issued by the Authority.

Division 5.—Contracts with the Authority.

57. (1) Unless or until the entering into a contract by the Authority is authorised, or the execution of that contract by the Authority is ratified, by the Governor, a contract purporting to be made by the Authority for works, plant, supplies or equipment and which is not a contract made under the State Tender Board Act 1965 shall, where the amount expressed as the consideration for the contract at the time of its execution exceeds \$2 000 000, be unenforceable against the Authority.

Financial
limitation
on
contractual
powers.

(2) Subsection (1) does not apply to any contract of a kind, or any contracts of a class, determined by the Governor, and the Minister shall cause sufficient particulars of any such determination to identify the kind or class of contract in question to be published by notice in the *Government Gazette*.

(3) Subsection (1) does not apply to or in relation to a contract for the provision of a loan or financial accommodation to the Authority entered into with the approval of the Treasurer under this Act.

Joint
Ventures.

58. (1) Subject to the provisions of any contract relating to the joint venture, where the Authority is acting on behalf of or in association with some other person, body or authority in the execution or contemplated execution of any works—

- (a) where the Authority is responsible for those works being carried out, the Authority has power to receive moneys relating to the joint venture and to disburse or arrange for the disbursement of those moneys for the purposes of that venture; and
- (b) where the Authority is not itself responsible for those works being carried out but participates in the joint venture, the authority is authorised to make contributions in respect of those works and may disburse or arrange for the disbursement of moneys in relation to any such contribution.

(2) In relation to any contract to which subsection (1) applies the Authority shall ensure—

- (a) that accounting records are maintained showing the several sources and the purposes for which moneys are received or disbursed, and the manner in which those moneys are used; and
- (b) that such records are open to inspection by responsible officers of the Authority, the Treasury, and the Auditor-General.

Inquiries
as to
preliminary
matters.

59. Except in so far as subsection (1) of section 57 applies—

- (a) no contract made, and no security, guarantee or indemnity given pursuant to this Part by the Authority shall be taken to be unenforceable by or against the authority, or shall be in any way prejudiced or otherwise affected by reason only—
 - (i) that any direction given to the Authority was not given effect to;

(ii) that any approval was not obtained, or any terms or conditions upon or subject to which any such approval was given were not complied with, as required by or pursuant to this Part;

or

(iii) that any money borrowed or credit obtained or financial accommodation extended was or is to be borrowed, obtained or extended, or was or is to be used, for a purpose other than a purpose of this Act or a relevant Act;

and

(b) a person dealing with the Authority shall not be bound or concerned to inquire into any matter of a kind referred to in paragraph (a).

60. All contracts duly made and executed by the Authority and by the parties thereto respectively shall, subject to the authorisation or ratification required by subsection (1) of section 57, be effectual in law and binding on the Authority and all other parties thereto, and in the case of default in the carrying out of any such contract either by the Authority or by any other party thereto, such actions or suits or other proceedings may be instituted either by or against the Authority in its corporate name or by or against the other parties making the default, and such damages and costs recovered, as might be instituted and recovered had the like contract been made between private persons.

Enforce-
ment.

Division 6.—Liability, indemnity, etc.

61. In so far as the whole or any part of those works or lands are used or reserved exclusively for the purpose of providing works or services related to the performance of the functions of the Authority,

No liability
for rates,
etc.

the Authority shall not be liable for payment of any rate, or other imposition which might otherwise be levied by a local authority, or any tax or duty assessed under any Act made, levied or charged on or in relation to any works or lands acquired by, vested in or under the management and control of the Authority for any of the purposes of this Act or any relevant Act.

Liability for
physical
damage to
land, etc.

62. (1) In the exercise of its powers of entry on to land or to carry out works under this Act or any relevant Act, except where the Act or an agreement relating to the exercise of the power otherwise provides, the Authority shall, in so far as that is practicable, forthwith make good or pay for the making good of, and, in so far as the making good is not practicable pay compensation for, the physical damage done to that land, or any premises or thing on that land, by the Authority in the course and at the time of, and the proximate cause of which is, the exercise or purported exercise of such a power, whether that damage is of a temporary character or a permanent character.

(2) Any dispute as to the manner of making good of, or the amount of any payment in respect of, damage under subsection (1), shall be heard and determined by a Compensation Court duly constituted under the provisions of the Public Works Act 1902, and in the manner provided in that Act.

(3) The Authority shall not be liable to pay to any person any amount in respect of damage under subsection (1) unless—

- (a) within 3 months after the damage is sustained, or within such further period as the Minister may allow, the person delivers in writing to the Authority a claim, or notice of intention to make a claim, for such amount; and
- (b) where there is no agreement with the Authority on the claim within 12 months after delivery of the claim or the notice,

the person, within that time, brings an action against the Authority to establish the requirement for, and entitlement to, payment.

(4) In calculating the amount payable under this section regard shall be had to any compensation received for the damage by the claimant pursuant to any other Act, and the amount payable under this section shall be adjusted accordingly.

(5) In calculating compensation payable under any other Act regard shall be had to any amount received for the damage by the claimant pursuant to this section, and the body or court so calculating is hereby authorised to take such amount, if any, into account.

63. (1) The Authority shall not be liable for any injury or damage, other than damage of the kind referred to in section 62, occasioned in the exercise or purported exercise of a power conferred by this Act or any relevant Act and attributable to the Authority or a statutory authority or a person authorised by the Authority or a statutory authority unless negligence is established.

Actions for
damages
generally.

(2) No action shall be maintained against the Authority in respect of any injury to the person, where the person injured fails without reasonable excuse to submit himself to medical examination by a specified medical practitioner or practitioners nominated by the Authority within such period as the Authority may by notice in writing require of him where that request is made by the Authority within 3 calendar months of the commencement of proceedings in respect of that injury.
