

METROPOLITAN WATER AUTHORITY ACT 1982.

(No. 36 of 1982.)

ARRANGEMENT.

PART I—PRELIMINARY.

Section.

Division 1—Commencement and Interpretation.

1. Short title.
2. Commencement.
3. Repeals, transitional provisions etc.
4. Interpretation.
5. Relation to the Metropolitan Water Supply, Sewerage, and Drainage Act 1909 and references to the former Board.

Division 2—Relationship with other laws and bodies.

6. The Authority, government departments and local authorities.
7. Revocation or amendment of by-laws and town planning schemes.

PART II—ADMINISTRATION.

Division 1—Metropolitan Water Authority.

8. Authority.
9. The Common Seal, authentication of documents, notices etc.
10. The administration of this Act.
11. The Minister and the Authority.

Division 2—The Board of Management.

12. The Board of management.
13. Acting members.
14. Remuneration of members.
15. Proceedings of the Board.
16. Interests to be disclosed.
17. Matters not to be invalidated by vacancies, or defects in appointment.
18. Transitional provisions.
19. Exemption from personal liability.

Division 3—Officers and Staff of the Authority.

20. Managing Director of the Authority.
21. Terms of appointment of Managing Director.
22. Acting appointments.
23. References in other Acts etc.
24. Assistance by or to the Public Service, and other administrative arrangements.
25. Officers and staff of the Authority.

Section.

Division 4—Future Staffing arrangements.

26. Authority to appoint certain staff.

Division 5—Rules as to staff.

27. Rules as to staff.

Division 6—Functions, Powers and Duties of the Authority.

28. The function of the Authority, its powers and duties.

Division 7—Delegation and Authorisation.

29. Delegation, and authorised persons.

30. Secrecy.

Division 8—Activities Carried out Jointly with Councils and Others.

31. Agreements for joint action.

32. Council may accept delegated powers, or act for Authority.

33. Functions may be undertaken by councils jointly.

34. Council may make by-laws.

PART III—AGREEMENTS RELATING TO WORKS
AND WATER SERVICES.

35. Application.
36. Interpretation.
37. Advice and guidelines.
38. Agreements.

PART IV—RATING.

39. Rateable land.
40. Rating records.
41. Rating valuations, and proportionate payments.
42. Access to land, and information.
43. Objections and appeals against valuations and assessments.
44. Making of the rate.
45. Rebate of sanitary rate paid to council.

PART V—FINANCIAL PROVISIONS.

46. Financial powers.
47. Specific State guarantees.
48. Delegation by the Treasurer, and authorisation by the Under Treasurer.
49. Contracts.
50. Funds of the Authority.
51. Provisions and reserves.
52. Payment of guarantee moneys, and charges upon the Account and assets.
53. Borrowing power, from Treasury sources.
54. Power of Authority to borrow on debentures or stock.
55. By-laws as to debentures and inscribed stock.
56. Trustee investments in debentures etc.
57. Power to make provision to pay off loans.
58. Accounts.
59. Accounting records may be inspected.
60. Financial year.
61. Accounts to be audited.
62. Annual report.
63. Search of public registers.
64. Exemption from rates etc.

METROPOLITAN WATER AUTHORITY.

No. 36 of 1982.

AN ACT to provide for the constitution, maintenance, and functions of a Metropolitan Water Authority; to provide a Board of management for that Authority, and for related matters.

[Assented to 27 May 1982.]

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 *Metropolitan Water Authority Act 1982*. Short title.

Commence-
ment.

2. The provisions of this Act shall come into operation on such day or days as is or are respectively fixed by proclamation.

Repeals,
transitional
provisions
etc.

3. (1) In this section, "the repealed provisions" means the provisions of the Metropolitan Water Supply, Sewerage, and Drainage Act 1909-1981, repealed by the Metropolitan Water Supply, Sewerage, and Drainage Amendment Act 1982.

(2) Without limiting the operation of the provisions of the Interpretation Act 1918, until regulations, by-laws, or rules are made under this Act or the Metropolitan Water Supply, Sewerage, and Drainage Act 1909 in relation to any matter the regulations, by-laws and rules applicable to that matter made under the repealed provisions and 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.

(3) Without limiting the operation of the provisions of the Interpretation Act 1918, to or in relation to the repealed provisions, unless the contrary intention appears in this Act—

- (a) all persons, things, and circumstances appointed or created by or under any of the repealed provisions or existing or continuing under the repealed provisions 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 repeals referred to in this section 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 of the repealed provisions and having effect immediately prior to the coming into operation of this section unless or until the effect thereof is altered pursuant to the provisions of this Act or the Metropolitan Water Supply, Sewerage, and Drainage Act 1909.

4. (1) In this Act, unless the context otherwise requires— Interpreta-
tion.

(a) “acting member” means a person appointed under section 13 to be an acting member of the Board;

“Authority” means the body corporate known as the Metropolitan Water Authority preserved and continued pursuant to section 8 of this Act;

“Board” means the Board of management of the Authority constituted by section 12 of this Act;

“Chairman” means the Chairman of the Board and includes a person acting in the office of chairman;

“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” includes 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;

“local authority” means—

- (a) a council;
- (b) any drainage board constituted under the Land Drainage Act 1925; or
- (c) any Local Board of Health under the Health Act 1911;

“Managing Director” means the person appointed under section 20 of this Act to be the Managing Director and Chief Executive Officer of the Authority;

“member” means a member of the Board and includes an acting member;

“Part” means a Part of this Act;

“section” means a section of this Act;

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

“the former Board” means the Metropolitan Water Supply, Sewerage, and Drainage Board;

“water services” means water supply, sewerage, or drainage provided by the Authority pursuant to the Metropolitan Water Supply, Sewerage, and Drainage Act 1909; and

- (b) terms assigned a meaning for the purposes of the Metropolitan Water Supply, Sewerage, and Drainage Act 1909 by section 5 of that Act have the same meaning for the purposes of this Act.

(2) For the purposes of Part IV the terms—

- (a) “gross rental value”;
- (b) “Land Valuation Tribunal”;
- (c) “occupied”;
- (d) “owner”; and
- (e) “unimproved value”,

have the same meaning as they have in and for the purposes of Part XXV of the Local Government Act 1960.

5. (1) The provisions of this Act are incorporated with, and may be read as one with, the Metropolitan Water Supply, Sewerage, and Drainage Act 1909, and a reference to “this Act” shall be read and construed as including a reference to that Act and to by-laws made under that Act.

Relation to the Metropolitan Water Supply, Sewerage, and Drainage Act 1909 and references to the former Board.

(2) Any reference to the Metropolitan Water Supply, Sewerage, and Drainage Board however expressed, whether—

- (a) in the Metropolitan Water Supply, Sewerage, and Drainage Act 1909 or any by-law under that Act; or
- (b) made—
 - (i) in a law of the State passed or made, or in any document or instrument made, executed, entered into or done; or
 - (ii) otherwise,before the coming into operation of this section,

shall unless the context is such that it would be incorrect or inappropriate so to do, be read and construed as a reference to the Authority.

(3) For the purposes of this section the term "law of the State" includes—

- (a) an Act;
- (b) regulations, rules or by-laws having effect by virtue of an Act; and
- (c) an instrument having effect by virtue of an Act or any such regulations, rules or by-laws.

Division 2—Relationship with other laws and bodies.

The Authority, government departments and local authorities.

6. (1) Where in relation to a provision of this Act or the Metropolitan Water Supply, Sewerage, and Drainage Act 1909 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—

- (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 Local Government Act 1960, the Land Drainage Act 1925 or the Health Act 1911, as the case requires, 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 the Metropolitan Water Supply, Sewerage, and Drainage Act 1909 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.

7. (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 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 in the opinion of the Governor, repugnant to or inconsistent with the provisions of this Act the Governor may by Order published in the *Government Gazette* revoke or amend that by-law or scheme, or the relevant provision thereof, 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.

Revocation
or
amendment
of by-laws
and town
planning
schemes.

(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 II—ADMINISTRATION.

Division 1—Metropolitan Water Authority.

Authority.

8. (1) On and after the commencement of this section the body corporate hitherto constituted under the Metropolitan Water Supply, Sewerage, and Drainage Act 1909 by the name "Metropolitan Water Supply, Sewerage, and Drainage Board" is preserved and continues in existence as a body corporate having perpetual succession and a common seal by the name "Metropolitan Water Authority", but so that the corporate identity of the body corporate and its rights, securities and assets of every description and its engagements, obligations and liabilities, as at the date immediately preceding the coming into operation of this section, are not affected and vest in or are imposed upon the Authority as constituted under this Act, but so that on and after the coming into operation of this section the Authority shall be subject to the provisions of this Act.

(2) Subject to section 18, a person holding office as a member of the Metropolitan Water Supply, Sewerage, and Drainage Board immediately before the coming into operation of this section shall, by virtue of the coming into operation of this section vacate that office but, subject to this Act, such a person shall be eligible for reappointment as a member of the Board as constituted under this Act.

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

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

(2) The Authority may, by writing under its Common 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 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 Common Seal 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 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 Common 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 the Metropolitan Water Supply, Sewerage, and Drainage Act 1909 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 Common Seal.

The admin-
istration of
this Act.

10. Responsibility for the administration of this Act is vested in the Minister but, subject to the Minister, the function of the Authority is to implement the provisions of this Act and of the Metropolitan Water Supply, Sewerage, and Drainage Act 1909 as an agent of the Crown in right of the State.

The Minister
and the
Authority.

11. (1) The Minister may give directions to the Authority or to the Board—

- (a) requiring the Authority to undertake, or to abstain or cease from undertaking, specified activities under this Act or the Metropolitan Water Supply, Sewerage, and Drainage Act 1909;
- (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; and
- (e) as to the operations of the Authority or the proceedings of the Board,

and such directions may be general or limited to a specific case.

(2) The Authority and the Board shall, in so far as the provisions of this Act or the Metropolitan Water Supply, Sewerage, and Drainage Act 1909 so permit, give effect to any such direction received from the Minister.

(3) Where the Minister, whether pursuant to this Act or to the Metropolitan Water Supply, Sewerage, and Drainage Act 1909—

- (a) gives to the Authority or the Board any direction;
- (b) grants any exemption; or
- (c) exercises a discretion,

and that direction, exemption or discretion has a continuing effect the Authority shall record the same in writing and submit that record to each Minister assuming the charge of the administration of this Act within 28 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 further period of 28 days 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 be at all times entitled to avail himself of the services and assistance of any officer or member of the staff of the Authority.

Division 2—The Board of Management.

12. (1) Subject to the Minister, the Authority shall be administered by a Board of management to be known as the “Metropolitan Water Board”.

The Board
of man-
agement.

(2) The Board shall consist of 7 members appointed by the Governor, of whom—

- (a) 3 shall be permanent members of the Board, appointed *ex officio*, being the persons for the time being holding or acting in the offices of the Authority specified in the instrument of appointment; and
- (b) 4 shall be appointed members, being persons who are not members of the staff of the Authority and who are not employed under and subject to the Public Service Act 1978.

(3) The Governor shall appoint one of the persons holding office as a member of the Board, whether *ex officio* or by appointment, to be Chairman of the Board.

(4) The Chairman shall be appointed for a term not exceeding 5 years, and each appointed member shall be appointed for a term not exceeding 3 years, as specified in his instrument of appointment.

(5) 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; or

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

Acting
members.

13. (1) Where—

(a) an appointed member is absent or temporarily incapable of fulfilling the duties of a member; or

(b) the office of an appointed 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 appointed 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, and the protection given to, the member in whose place the person is appointed to act.

(2) 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.

(3) A member appointed *ex officio* may nominate in writing a person to represent him 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.

(4) The appointment of a person as an acting member or as acting Chairman, or the nomination of a person to represent an *ex officio* member, may be terminated at any time by the Minister.

14. (1) A member, other than an acting member, shall be paid such remuneration and allowances as the Governor determines.

Remuneration of members.

(2) An acting member shall be paid such remuneration and allowances as the Minister determines.

15. (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.

Proceedings of the Board.

(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 4 members, of whom—

- (a) 2 shall be persons who are *ex officio* members or are nominated pursuant to subsection (3) of section 13; and
- (b) 2 shall be persons who are or are acting as appointed members,

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 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;
- (b) subject to paragraph (c) of this subsection, where the votes cast on any question are equally divided, the question shall remain unresolved until the next meeting of the Board; but
- (c) where a question remains unresolved from a previous meeting and the votes cast on that question at the next meeting are again equally divided, the person presiding at that subsequent meeting shall exercise a casting vote on the question.

(6) 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 shall be amended as necessary and certified correct either by the person presiding thereat or by the person presiding at the subsequent meeting.

(7) 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.

(8) Subject to any direction given by the Minister, and to any standing orders approved by the Minister, the Board may make rules for or with respect to the conduct of its own procedure or providing for any other administrative matters where there is no provision, or no sufficient provision, in this Act in relation to any matter.

16. 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 a responsible officer of the Authority 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.

17. No proceeding or act of the Board 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.

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

18. (1) Notwithstanding that the Board is constituted and may, under this Act or the Interpretation Act 1918, exercise powers and functions and discharge duties before the appointed day, the Metropolitan Water Supply, Sewerage, and Drainage Board constituted under the Metropolitan Water Supply, Sewerage, and Drainage Act 1909 may continue to exercise powers and functions and discharge duties under both this Act and that Act until but not on or after the appointed day.

Transitional provisions.

(2) Notwithstanding that the term of office of a person who is, or was immediately before the coming into operation of this section, a member of the Metropolitan Water Supply, Sewerage, and Drainage Board expires or expired prior to the appointed day the term of office of that person as a member is deemed to have continued until, and to have expired immediately before, the appointed day, and no act performed by him as a member prior to the appointed day shall be invalid by reason only of the fact that his term of office as a member would otherwise have expired.

(3) In subsections (1) and (2) "appointed day" means the day fixed by the Minister by notice published in the *Government Gazette* to be the appointed day for the purposes of subsection (1).

Exemption
from
personal
liability.

19. A person who is or has been a member, acting member or delegate of the Board, the former Board, or the Authority is not personally liable for anything done or omitted in good faith in, or in connection with, the exercise or purported exercise of any power conferred, or the carrying out of any duty imposed, on the Board, the former Board or the Authority by this Act or the Metropolitan Water Supply, Sewerage, and Drainage Act 1909.

Division 3—Officers and Staff of the Authority.

Managing
Director of
the
Authority.

20. (1) There shall be an office of Managing Director of the Metropolitan Water Authority.

(2) The person holding the office of Managing Director is thereby constituted the Chief Executive Officer of the Authority.

Terms of
appointment
of
Managing
Director.

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

(2) The conditions of service of the Managing Director shall be such as the Governor determines.

(3) Subject to 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.

22. (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.

Acting
appoint-
ments.

References
in other
Acts etc.

23. A reference in any other law or document, however expressed, to the General Manager, or the Commissioner, of the former Board may, unless the context requires otherwise, be read and construed as a reference to the Managing Director.

Assistance
by or to the
Public
Service, and
other
admin-
istrative
arrange-
ments.

24. (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 the Metropolitan Water Supply, Sewerage, and Drainage Act 1909 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 in 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.

(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 other 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.

25. 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.

Officers and
staff of the
Authority.

Division 4—Future Staffing Arrangements.

26. (1) In this section—

Authority to
appoint
certain staff.

“appointed day” means such day as may be fixed by the Governor, by Order in Council published in the *Government Gazette*, to be the appointed day for the purposes of 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 other 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 5—Rules as to Staff.

Rules as to
staff.

27. Subject to this Act and to any other relevant Act, and to 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.

Division 6—Functions, Powers and Duties of the Authority.

The function
of the
Authority,
its powers
and duties.

28. (1) In accordance with section 10, the Authority shall carry out the duties imposed on the Authority by or under this Act or the Metropolitan Water Supply, Sewerage, and Drainage Act 1909, or expressly or impliedly required pursuant to any other Act, and for the purpose of the performance of that function, the Authority has and may exercise the powers conferred on the Authority by and under this Act, the Metropolitan Water Supply, Sewerage, and Drainage Act 1909, and any other Act.

(2) Subject to this Act, the Authority—

- (a) is capable of doing or suffering all that bodies corporate may by law do or suffer;
- (b) may sue and be sued in its corporate name;

- (c) may enter upon land and carry out works thereon;
- (d) may acquire, lease or otherwise deal in and dispose of real and personal property;
- (e) may exercise the power to make and levy rates and impose charges and as to finance and investment conferred by or under this Act or the Metropolitan Water Supply, Sewerage, and Drainage Act 1909; and
- (f) generally, has all such powers, rights and privileges as are reasonably necessary to enable it to perform its functions, exercise its powers and carry out the duties imposed on it.

Division 7—Delegation and Authorisation.

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

Delegation,
and
authorised
persons.

- (a) this power of delegation;
 - (b) the power of the Authority to make by-laws or the power of the Board to make rules; or
 - (c) a function or power that the Minister has directed the Board not to delegate.
- (2) A delegation under subsection (1) may be to—
- (a) a member of the Board or an officer or member of the staff 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 council or 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 under subsection (1); or

(b) a person authorised by a delegate of the Board 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 or, as the case requires, by the Board.

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

(7) The giving of an authority under subsection (4) does not prevent the performance of a function or the exercise of a power by the person by whom the authority 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 is vested in the Authority or the Board, the power may be exercised by the delegate, or a person authorised under subsection (4), upon his own discretion 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 or on the Board under any Act, it shall be presumed, unless the contrary is established, that the person is duly authorised as a delegate by the Board, 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 of a public authority established by an Act or an officer or employee of a council, may perform or exercise any function or power that is conferred or expressed to be conferred on the Authority or the Board 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 or the Board shall be so given to the delegate by the Board.

Secrecy.

30. (1) Subject to this section, a person who is, or has at any time been, appointed as an officer or employee of the Authority or the former Board, or as a delegate by the Board or the former Board for the purposes of any Act, or authorised to perform or exercise any function or power of the Authority or the Board or the former Board, or on behalf of the Authority or the Board or the former Board, 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 appointed or authorised, 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, the Metropolitan Water Supply, Sewerage, and Drainage Act 1909, 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 Board, 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 8—Activities Carried Out Jointly with Councils and Others.

31. (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.

Agreements
for joint
action.

(2) A council may enter into such an agreement pursuant to section 328 of the Local Government Act 1960 as though the Authority were a council.

(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, and may also advise on or supervise any such work if invited so to do.

32. Where the Board desires—

- (a) to delegate to a council any function or power pursuant to section 29; or

Council
may accept
delegated
powers, or
act for
Authority.

- (b) that a council should carry out or maintain works or provide or maintain water services on behalf of the Authority,

a council is not required to agree to the proposal of the Board or to accept or give effect to a delegation under this Act otherwise than in accordance with an agreement entered into between the Authority and the council, but the council is empowered to give effect to the delegation, and to carry out, provide or maintain works or water services 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.

33. 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 and the Metropolitan Water Supply, Sewerage, and Drainage Act 1909 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 6 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.

34. (1) Where the Board delegates to a council any function or power of the Authority or the Board pursuant to section 29 the council may make by-laws under this Act, to have effect in its district and in any other area in which pursuant to 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, and where, and to the extent that, there is inconsistency between the provisions of a by-law made under this Act 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 Act shall prevail.

Council may
make
by-laws.

(2) The Authority may cause to be prepared and published in the *Government Gazette* draft model by-laws which a council may adopt, with or without alterations, for the purposes of this Act.

(3) Where a draft model by-law is adopted, with or without alterations, by a council that by-law shall for all purposes have effect as if it were made by the council.

(4) Where a council intends 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 specify the draft model by-law to be adopted setting out any alterations proposed;

- (b) resolve that the by-law be made, specifying in the resolution any alterations proposed to a draft model by-law;
- (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 by-law to the Authority for confirmation by the Governor to be published once in a newspaper circulating in the area to which the by-laws are intended to apply and cause to be stated in the notice the purport of the by-law, and of the alterations, if any, where a draft model by-law is adopted, and notification that the full text of the 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 by-law to be available free of charge for public inspection during office hours at the office of the council.

(5) The notice of the intention to submit the by-law to the Authority for confirmation by the Governor published in a newspaper in accordance with paragraph (d) of subsection (4) 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.

(6) 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.

(7) The council shall consider any objection or representation made under subsection (6) and, if the council thereafter still desires to make the by-law in the form published, cause the sealed record of the resolution mentioned in paragraph (c) of subsection (4) to be delivered to the Authority together with a report on the objections and representations made in respect of the proposal.

(8) 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.

(9) 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.

(10) 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 under this Act.

(11) Any by-law made under this Act may be so made—

- (a) as to apply generally or in a particular class of case, or particular classes of cases, at all times or at a specified time or specified times, throughout the area in relation to which a by-law may be made under this Act or in a specified part or specified parts of that area;
- (b) as to require a matter affected by it to be in accordance with a specified requirement, or as approved by, or to the satisfaction of, a specified person or body, or class of person or body, and so as to authorise a specified body to exercise a discretionary authority; and
- (c) as to provide that in specified cases, or a specified class of case, or specified classes of cases, whether on specified conditions or unconditionally, persons or things may be exempted from its provisions either wholly or to such extent as is specified. .

(12) A by-law made pursuant to this section may make provision for the imposition of penalties not exceeding \$200 in respect of any contravention.

(13) Where in relation to a by-law made under this Act the expression “specified” is used, the expression, unless the context requires otherwise, means specified in that by-law.

(14) The provisions of section 264 to section 265, inclusive, of the Local Government Act 1960 apply to a by-law made under this Act as if it were made under that Act.

(15) A council shall cause—

- (a) copies of the by-laws which are made by it under this Act 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.

PART III—AGREEMENTS RELATING TO WORKS
AND WATER SERVICES.

35. The provisions of this Part apply to and in relation to any land in relation to which the Authority provides, proposes to provide, or is or may be requested to provide, water services. Application.

36. For the purposes of this Part— Interpreta-
tion.

- (a) unless the context otherwise requires—

“development” has the meaning given under and for the purposes of the Town Planning and Development Act 1928;

“headworks” means all works necessary to provide and maintain water services, not being reticulation works;

“proposal” includes a plan, specification or design, and any amended proposal, for the development or subdivision of any land;

“planning condition” means a condition affixed—

- (a) pursuant to Part III of the Town Planning and Development Act 1928 to the granting of approval of a plan of subdivision; or

- (b) pursuant to Part XV of the Local Government Act 1960 to the granting of a building license;

“reticulation” means the system of minor works necessary to provide services to particular land, being works connecting headworks to the point at which the service is provided;

(b) a reference to—

“development” includes a reference to, a re-development, or a proposed development or re-development;

“subdivision” includes a reference to re-subdivision or amalgamation;

“the provision of works” includes a reference to the construction, extension, addition, alteration or improvement of headworks or reticulation,

as the case may require, and cognate expressions shall be construed accordingly; and

(c) any question as to what constitutes headworks or reticulation may be determined by the Authority, and effect shall be given to that determination.

Advice and
guidelines.

37. For the guidance of planning authorities, land developers and persons interested the Authority may—

(a) give advice, whether general or specific, in relation to a proposal; or

(b) issue guidelines as to the works or water services appropriate to specified kinds of development,

and where the whole or any part of that advice or a relevant guideline is capable of being sufficiently identified it may be incorporated by reference in a planning condition as though it were set out in the text of the condition affixed.

38. (1) Where the Authority becomes aware that in order to satisfy a requirement for water services indicated by— Agreements.

- (a) a proposal; or
- (b) a change in, or a proposal to change, the use or nature of an existing development to which existing water services are provided,

the provision of works, or the use of water services provided by the Authority, may or will be necessary in relation to the whole or any part of the land affected, the Authority may, by notice served on the person submitting the proposal or on the owner of the land, require that the owner of the land, or a person authorised on his behalf, furnish information as to the proposal or change to the Authority and negotiate and enter into an agreement under this section with the Authority in relation to the provision of those works or the use of those water services.

(2) Where a notice has been served by the Authority on any person under subsection (1), the Authority may, and if so directed by the Minister shall, serve another notice on that person varying or rescinding the earlier notice, and a reference to the requirements of the notice shall be read as a reference to the requirements of the notice as so varied.

(3) Where the Authority serves a notice under this section the Authority may furnish a copy of that notice to the Town Planning Board or council concerned advising that due to the proposal or change the Authority is unwilling or unable to provide the required works or water services unless an agreement can be negotiated, and a planning condition requiring connection to, or the provision of, works or water services may be affixed by reference to that notice under the Act in pursuance of which the proposal was submitted, and any

approval under the relevant Act imposing the planning condition shall not be taken to be effective until—

- (a) the planning condition is removed under the provision of that Act;
- (b) the notice served by the Authority under this section is rescinded by the Authority; or
- (c) the Town Planning Board or that council is satisfied that—
 - (i) the provisions of an agreement entered into with the Authority under this section in relation to the works or water services referred to in that planning condition have been implemented or that such implementation has been ensured in a manner satisfactory to the Authority; or
 - (ii) the requirements of the Authority have been otherwise met.

(4) Nothing in this section requires that, by reason only of a notice served under this section by the Authority having been rescinded or complied with, an application under Part III of the Town Planning and Development Act 1928 for the approval of a plan of subdivision or under Part XV of the Local Government Act 1960 for the grant of a building license should be approved.

(5) In the consideration of whether or not the provision of works, or the use of services provided by the Authority, may or will be necessary in relation to any land, regard may be had to the existing and future requirements of that land and of other lands.

(6) An agreement entered into under this section may make provision for works or water services which have been or are to be provided to or in relation to any land otherwise than by the Authority.

(7) An agreement entered into under this section may provide that the Authority or a person shall be entitled to payment notwithstanding that works are or have been provided prior to a proposal being approved under the Town Planning and Development Act 1928 or a building license being issued or the subdivision or development being proceeded with, and that entitlement to payment shall not be affected by reason only that the approval is not given, the building license not issued or the proposal not implemented.

(8) An agreement entered into under this section may make provision for payment or an advance to be made in respect of the provision of works or water services, whether provided or to be provided by the Authority or otherwise, or for security to be given for any payment or advance or in relation to any works under the agreement, or for the repayment of the whole or such part as may be agreed upon of any cost related to previous or existing works or water services incurred by any person, or in relation to any other relevant payment, advance or security.

(9) The making of an advance to the Authority towards the cost of the provision of works or water services specified in an agreement entered into under this section shall not be taken to be a borrowing entered into by the Authority.

(10) Unless the agreement otherwise requires, all works provided or in the course of being provided, whether or not by the Authority, pursuant to an agreement entered into under this section vest in and are the property of the Authority.

(11) Where the Authority is to provide works or water services pursuant to an agreement under this section it may, notwithstanding the terms of the agreement, provide works or water services involving greater expenditure than those specified in the agreement if the additional cost is borne, or provided for, by the Authority.

(12) An agreement entered into under this section may impose charges by reference to the specific works contemplated by the agreement, or by reference to an apportioned amount which the Authority determines as appropriate, having regard to—

- (a) the nature of works and water services provided or to be provided;
- (b) operating and maintenance costs; and
- (c) the difficulty of ascertaining to what extent any particular land is thereby served.

PART IV—RATING.

Rateable
land.

39. (1) All land within the Area is rateable land for the purposes of this Act, other than—

- (a) land the property of the Crown, being land which is—
 - (i) used for a public purpose; or
 - (ii) unoccupied, except where and to the extent and manner in which a person mentioned in paragraph (e), (f), or (g) of the interpretation of “owner” in section 6 of the Local Government Act 1960 occupies or makes use of the land;
- (b) land vested in or in the use and occupation of a local authority, not being land—
 - (i) used for the purposes of a trading concern; or
 - (ii) held or occupied by any tenant under the local authority;
- (c) land belonging to a religious body, being land used or held exclusively as or for a place of public worship, a Sunday-school, a place of residence of a minister of religion, a convent, nunnery or monastery, or occupied exclusively by a religious

brotherhood or sisterhood, and not being land leased or occupied for any private purpose;

- (d) land used exclusively as a public hospital, benevolent asylum, orphanage, public school, private school (being the property of a religious body), public library, public museum, public art gallery, or mechanics' institute, and not being land leased or occupied for any private purpose or held under lease or rented from any owner except the Crown;
- (e) land used, occupied, or held exclusively for charitable purposes, not being land leased or occupied for any private purpose or held under lease or rented from any owner except the Crown;
- (f) land vested in any board under the Parks and Reserves Act 1895, or in trustees for agricultural or horticultural show purposes, or zoological or acclimatisation gardens or purposes or for public resort and recreation;
- (g) land used or held as a cemetery; or
- (h) land which is declared—
 - (i) by the Governor; or
 - (ii) by any Act,
to be exempt from rates under the Metropolitan Water Supply, Sewerage, and Drainage Act 1909 or this Act.

(2) Land does not cease to be used exclusively for a purpose mentioned in subsection (1) merely because it is used for the purposes of a bazaar, or as a place of meeting for any religious, charitable, temperance, or benevolent object, or for a polling place at any parliamentary or other election.

(3) The Governor may—

- (a) by subsequent declaration cancel or vary any declaration made prior to the coming into operation of this section under paragraph (h) of section 72 of the Metropolitan Water Supply, Sewerage, and Drainage Act 1909 or under any provision of a previous enactment to which that paragraph corresponds and which purported to exempt land from liability for payment of rates of the kind imposed under this Act;
- (b) by declaration exempt any land or portion of a parcel of land from rates under this Act, wholly or to such extent as is specified, or subject to such conditions as are specified; and
- (c) by subsequent declaration cancel or vary any such declaration.

Rating records.

40. (1) The Authority shall compile, from time to time amend, and maintain rating records in respect of all rateable land within the Area showing—

- (a) the description and situation of the land rated;
- (b) the name and address of the owner;
- (c) the assessment number;
- (d) the gross rental value, or the unimproved value, of the land, as the case requires;
- (e) the amount payable in respect of rates of the respective kinds that is levied for the current rating year; and
- (f) such other information as may be prescribed or as the Authority requires.

(2) Where the name or address of the owner of any land liable to be rated under this Act is not known to the Authority or the Authority is otherwise authorised by or on behalf of the owner, the Authority may—

- (a) record the fact that the name or address is unknown in the rating record;

- (b) record the name and address of a person occupying, or responsible for the management of, the land or authorised to accept service of notices or demands on behalf of the owner; and
- (c) rate the land, and in respect of the rate, serve notice and make demand upon either—
 - (i) the owner or occupier, by that designation, pursuant to section 150 of the Metropolitan Water Supply, Sewerage, and Drainage Act 1909 or otherwise; or
 - (ii) a person authorised to accept service on behalf of the owner.

(3) The rating record for any rateable land shall at all reasonable times be made available for inspection by any ratepayer without payment, and the Authority shall, on request by any person who satisfies the Authority that he has a material interest in any portion of the records, furnish a copy of that portion of the records to that person on payment of the prescribed amount.

(4) For the purposes of this Act, a person authorised in writing by the Authority may at any reasonable time without any fee or charge inspect any valuation, rate book or other valuation or rating records maintained by or in the possession of a local authority and shall be permitted access thereto and to take copies or copies of extracts, and the town clerk or the shire clerk of a municipality shall on the request of the Authority—

- (a) furnish to the Authority, on payment of such amount, if any, as may be prescribed, pursuant to the Local Government Act 1960, a copy of any such record verified by him by statutory declaration; and
- (b) notify the Authority in writing of any amendment or alteration made thereto.

Rating
valuations,
and
propor-
tionate
payments.

41. (1) Subject to this section, in relation to any rateable land the Authority shall adopt rating valuations, as in force at 1 July in the rating year for which the rating records are being made up on the basis of—

- (a) the gross rental value; or
- (b) the unimproved value,

as the case may be, determined or assessed under the Valuation of Land Act 1978.

(2) Subject to the provisions of any Agreement to which the State is a party and which, or the execution of which, is or has been ratified, authorised or approved by an Act, the basis of rating valuation for the purposes of this Act shall be the gross rental value unless the Minister otherwise approves.

(3) Where by reason only of a general valuation under the Valuation of Land Act 1978 the valuation in relation to any land is changed under that Act, the Authority shall for the purposes of this Act in relation to that land—

- (a) adopt any lesser valuation thereby resulting; and
- (b) where the change results in an increased valuation, adopt—
 - (i) for the first year of assessment for which the new value is in force, the former valuation (that is, the valuation in force immediately before the new valuation came into force) plus one third of the difference between the new valuation and the former valuation;
 - (ii) for the second such year, the former value plus two thirds of that difference; and
 - (iii) thereafter, a valuation which does not exceed the valuation in force for the purposes of that Act.

(4) Where an interim valuation of any land comes into force under the Valuation of Land Act 1978 at any time other than by reason of a general valuation and the interim valuation differs from the amount which was previously in force, the Authority shall adopt the interim valuation, subject to subsection (5), and may amend the assessment of rates payable on that land in respect of the portion of the rating year unexpired as at the date the determination of the interim valuation came into force.

(5) In adopting an interim valuation pursuant to subsection (4) the Authority—

- (a) shall give effect to any reduction in the valuation; and
- (b) may, where the change results in an increased valuation, adopt that change as though a notional valuation of that land, calculated by reference to its development and use as at the time of the interim valuation, had been adopted at the preceding general valuation and the provisions of paragraph (b) of subsection (3) applied.

(6) Where land is owned or occupied by a number of persons the Authority may, having regard to any relevant determination made under the Valuation of Land Act 1978 and, where appropriate, to section 21 of the Strata Titles Act 1966, apportion the valuation in relation to the several interests and assess, or amend the assessment of, rates and charges based upon rating valuation payable in relation to the respective interests in the land on a basis proportionate to those interests.

(7) During a rating year—

- (a) if land that was not rateable becomes rateable land, or water services in respect of which a liability for the payment of rates or charges arises are provided to any land, rates or such charges are payable propor-

tionate to the period of the rating year unexpired as at the date the liability arises; and

- (b) if land that was rateable land ceases to be rateable, or water services in respect of which a liability for the payment of rates or charges arose cease to be provided to any land, the liability for payment of rates or such charges ceases in relation to that portion of the rating year unexpired as at the date the Authority became aware of the circumstances.

(8) Where, in relation to any land, the amount of any rates or charges that would otherwise be payable is altered by the operation of this section—

- (a) if the amount is increased, the increased amount is payable to the Authority; and
- (b) if the amount is reduced, but has already been paid at the time the reduction takes effect, the Authority shall refund or credit the amount of the reduction,

in accordance with the by-laws.

(9) Where a person is liable, pursuant to an agreement with the owner of any land, for payment of the whole or a portion of the rates payable on that land, he shall be entitled, upon written request, to be informed by the Authority of the total rates payable on the land together with any apportionment made by the Authority under subsection (6) relating to the land.

Access to
land, and
information.

42. (1) For the purposes of this Act, a person authorised in writing by the Authority may—

- (a) enter into and upon any land in the Area without being liable to legal proceedings for or on account of the entry; and
- (b) put to the owner, or an agent of the owner, or a person in occupation or in apparent charge of the land such questions as are

necessary to enable the several particulars required to be ascertained to be compiled correctly,

in so far as may be required to enable a valuation of the land to be amended or apportioned by the Authority.

(2) A person who, after being informed of the purpose of the questions and of the authorisation of the person putting the questions, refuses or omits to answer the questions or any of them to the best of his knowledge and belief, or who knowingly makes a false answer or statement in reply to a question so put, commits an offence.

Penalty: \$1 000.

(3) A person who—

- (a) becomes or ceases to be the owner of; or
- (b) being a person on whom the Authority is authorised by the owner to serve notices or demands, ceases to be so authorised in relation to,

any land liable to any rates or charges under this Act or the Metropolitan Water Supply, Sewerage, and Drainage Act 1909, and who fails, within 14 days thereafter, to give to the Authority notice of the fact, commits an offence.

Penalty: \$50.

(4) A person who, after being requested to furnish that name by the Authority or any officer authorised by the Authority—

- (a) being the occupier of any land, refuses or wilfully omits to disclose, or wilfully misstates, to the Authority or officer making the request the name of the owner of the land or of the person receiving or authorised to receive the rents of the land; or
- (b) being the person receiving or authorised to receive the rents of any land refuses or wilfully omits to disclose, or wilfully mis-

states to the Authority or officer making the request the name of the owner of the land, commits an offence.

Penalty: \$1 000.

Objections
and appeals
against
valuations
and
assessments.

43. (1) Subject to this section, there shall be no objection or appeal in respect of the valuation of any rateable land for the purposes of this Act, otherwise than in accordance with the Valuation of Land Act 1978.

(2) A person, whether an owner or an occupier, who is liable to pay any rate or charge assessed in respect of land the valuation of which—

(a) is adopted by the Authority pursuant to subsection (3), (4) or (5) of section 41; or

(b) is apportioned by the Authority pursuant to subsection (6) of section 41,

may object to the assessment in accordance with this section.

(3) An objection to an assessment shall—

(a) describe the relevant land so as to identify it;

(b) identify the valuation and the assessment objected to; and

(c) set out fully and in detail the grounds of objection.

(4) An objection to an assessment in relation to any land pursuant to subsection (2) may be made on the ground that the assessment is not fair or is unjust, inequitable or incorrect, whether by itself or having regard to other assessments or valuations in force under this Act or the Valuation of Land Act 1978.

(5) Any person who is rated in respect of land, or is charged for water services, on the basis that the land is not used for residential purposes may object to the basis of the assessment on the ground that the land is used for residential purposes.

(6) An objection under subsection (2) or (5) shall be in writing and shall be served on the Authority within 42 days (or such further period as the Authority may, for reasonable cause shown by the person entitled to make the objection, allow) after the issue of the relevant assessment.

(7) The Authority shall, with all reasonable despatch, consider any objection and may either disallow it or allow it, wholly or in part.

(8) The Authority shall promptly serve upon the person by whom the objection was made written notice of its decision on the objection and a brief statement of the reasons for that decision.

(9) Where the Authority decides to disallow an objection, wholly or in part, it shall also advise the person by whom the objection was made of the time within which and the manner in which an appeal against the decision may be made.

(10) A person who is dissatisfied with the decision of the Authority on an objection by that person may, within 42 days (or such further period as the Authority may, for reasonable cause shown by the person, allow) after service of notice of the decision of the Authority, serve on the Authority a notice requiring that the Authority treat the objection as an appeal against the relevant rate assessment.

(11) Upon receipt of a notice under subsection (10) the Authority shall promptly refer the objection to a Land Valuation Tribunal under the Land Valuation Tribunals Act 1978.

(12) A person who is dissatisfied with a decision of the Authority to refuse to extend the time for service of an objection under this section, or for

service of a notice requiring the Authority to treat an objection as an appeal, may serve on the Authority a notice requiring the Authority to refer the decision to a Land Valuation Tribunal under the Land Valuation Tribunals Act 1978 as an appeal.

(13) Upon receipt of a notice under subsection (12) the Authority shall promptly refer the decision to a Land Valuation Tribunal as an appeal.

(14) The making of an objection or an appeal, whether in respect of an assessment in relation to any land or under subsection (5), does not affect the liability of the ratepayer to pay any rates or charges assessed under this Act pending determination of the objection or appeal.

(15) The Authority shall make any amendment of an entry in the rating records which may be necessary in consequence of the allowance, wholly or in part, of an objection or an appeal, whether in respect of an assessment in relation to any land or in respect of the use of land for residential purposes.

(16) The Authority shall issue a notice of an amended assessment of rates under this Act when, in consequence of the allowance, wholly or in part, of an objection or an appeal, whether in respect of an assessment in relation to any land or in respect of the use of land for residential purposes, amendment of an assessment is necessary.

Making of
the rate.

44. (1) The rating records maintained by the Authority in relation to a rating year shall, subject to—

- (a) the provisions of section 41; and
- (b) any amendments occasioned by reason of—
 - (i) land becoming rateable or ceasing to be rateable;

1982.] *Metropolitan Water Authority.* [No. 36.

- (ii) water services being provided or ceasing to be provided; or
- (iii) erroneous entries,

be the basis upon which rates shall be assessed for that rating year.

(2) A person affected by an amendment of the rating records has the same rights of objection and appeal in relation to the amendment as he would have had if the amendment had been a determination first entered in the records at the time of the amendment.

(3) In relation to any rating year, rates shall be made and may be levied by the Authority, in relation to—

- (a) water, throughout the Area in respect of land capable of being supplied with water from water services of the Authority although the land may not be actually supplied with water by the Authority;
- (b) sewerage, in respect of land in the Area which is capable of being served by a sewer and in respect of which the Authority has served on the owner or occupier a notice of that capability; and
- (c) drainage, in respect of land within a metropolitan main drainage district,

respectively, and the several rates made shall be assessed on rateable land in the Area, on the basis, subject to this Act and to subsection (4) of section 90 and section 94 of the Metropolitan Water Supply, Sewerage, and Drainage Act 1909, of the valuations in the rating record for that rating year, having regard to the costs of the general administration of this Act, including the maintaining of provision and reserve accounts, the servicing of loans and the payment of interest in relation to existing and proposed projects, the maintenance, management and extension of water services, and the provision of works, but the revenue derived from any such

rates shall be attributable to, and held for the purposes of, the general requirements of the Authority.

(4) Any question as to whether or not any land is capable of being supplied with water or served by other water services shall be determined by the Authority.

(5) A rate may be made so as to be applicable to land generally, or applicable to any particular land or any class of case, and may vary by reference to a scale (whether calculated by graduated or cumulative increments by reference to the valuation, or otherwise) and may be made—

- (a) so as to have effect in a particular circumstance or specified part of the Area;
- (b) so as to make different provision in relation to different classes of land or different kinds of land use;
- (c) so as to take into account in relation to particular land or a particular class of case antecedent circumstances, including the provision or sharing of existing works, the making of contributions towards the cost of works, and the effect of agreements entered into with the Authority,

and may make provision so that discounts for prompt payment may be given, or additional charges for deferred payment imposed, in accordance with the by-laws.

(6) The making of rates by the Authority of the respective kinds referred to in subsection (3) for the year, and the manner in which pursuant to subsection (5) those rates are to be applicable shall be set out in a resolution of the Board and submitted to the Minister for approval, and on the Minister approving the resolution the Authority shall cause a copy of the resolution to be published in the *Government Gazette* and in a newspaper circulating generally in the Area.

(7) On the publication of the notice pursuant to subsection (6) the rates as particularised in that notice shall apply in the Area in relation to the rating year specified in that notice.

(8) The production of a copy of the *Government Gazette* containing a notice published pursuant to subsection (6) as to the making of rates shall in all courts be conclusive evidence of the making of those rates and its publication.

(9) Rates assessed and demanded by the Authority in relation to the respective water services referred to in subsection (3) on any land, subject to this Act and the Metropolitan Water Supply, Sewerage, and Drainage Act 1909 and the by-laws made thereunder, are—

- (a) payable in accordance with the by-laws, at the time and in the manner specified in the by-laws or, where no time for payment is so specified in relation to any rate, by half yearly moieties in advance; and
- (b) a debt due to the Authority from the owner of the land, but recoverable at the option of the Authority from the occupier of the land pursuant to subsection (2) of section 103 of the Metropolitan Water Supply, Sewerage, and Drainage Act 1909, and the occupier may thereupon, subject to any special agreement to the contrary as between the occupier and the owner, exercise the powers conferred on an occupier under that Act to recover from the owner any money which was paid by the occupier.

45. Where a rate is made and levied by the Authority in relation to sewerage in respect of any land and the owner or occupier has paid or is liable to pay to the council for the district in which the land is situate a sanitary rate in respect of that land for the same period, the council shall repay or allow a rebate of a proportionate part of the sanitary rate in respect of that portion of the period during which such a rate is levied by the Authority.

Rebate of
sanitary
rate paid to
council.

PART V—FINANCIAL PROVISIONS.

Financial powers.

46. (1) The Authority, subject to this Act, may—

- (a) borrow, or re-borrow, moneys—
 - (i) pursuant to section 53;
 - (ii) pursuant to section 54, subject to the issue and sale of debentures, or the creation, issue and sale of inscribed stock, in the manner specified in that section; or
 - (iii) subject to the approval of the Treasurer, in ways additional to or other than those specifically provided for in this Act;
- (b) obtain credit;
- (c) arrange for financial accommodation to be extended to the Authority in ways additional to or other than borrowing moneys or obtaining credit;
- (d) provide credit (including credit to consumers in the normal course of business) for, or arrange financial accommodation on behalf of, or lend or advance money to any person, to be used for the purposes of this Act, whether or not security is to be furnished to the Authority;
- (e) with the approval of the Treasurer and subject to the Public Moneys Investment Act 1961, invest money for the time being in securities within the meaning of that Act;
- (f) with the approval of the Treasurer open, maintain and operate an account in the name of the Authority, in the State or elsewhere, with such bank or banks as the Treasurer may approve;
- (g) pay commission or brokerage, compound and settle disputes, breaches of contract and actions, enter into arbitration, and guarantee or give indemnities for the

payment of money or the performance of contracts or obligations by any other person; and

(h) give, take or arrange security.

(2) Where—

(a) the Authority proposes to make use of—

(i) moneys borrowed by the Authority;

(ii) credit obtained by the Authority; or

(iii) financial accommodation extended to the Authority,

under this section; or

(b) the Authority exercises any other power conferred by this section,

that money, credit or accommodation shall be used, and that power shall be exercised, by the Authority for the purposes only of this Act or any other Act administered by the Authority and not otherwise.

(3) 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.

(4) 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.

(5) Except in so far as subsection (1) of section 49 applies—

(a) no contract made, or security, guarantee or indemnity given, by the Authority pursuant to this section 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, any approval required to be obtained was not obtained, or any terms or conditions upon or subject to which any such approval was given were not complied with, required by or pursuant to this section; or
 - (ii) 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 any other Act administered by the Authority; and
- (b) a person dealing with the Authority shall not be bound or concerned inquire into any matter of a kind referred to in subparagraph (i) or (ii) of paragraph (a).

(6) 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 the former Board, whether made before or after the coming into operation of this Act, or to any contract or security relating to such a loan.

Specific
State
guarantees.

47. (1) Subject to the approval of the Governor, the Treasurer may guarantee on behalf of the State 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.

48. (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.

49. (1) Subject to subsection (2) a contract, Contracts.
other than a contract made under the State Tender Board Act 1965, which purports to be made by the Authority where the amount expressed as the consideration for the contract at the time of its execution exceeds one million dollars shall be unenforceable against the Authority unless or until the entering into that contract by the Authority is authorised, or the execution of that contract by the Authority is ratified by the Governor.

(2) The Governor may exempt a contract of any kind, or contracts of any class, from the operation of subsection (1), and sufficient particulars of the exemption granted to identify the kind or class of contract in question shall be published by notice in the *Government Gazette*.

(3) Subject to the provisions of any contract relating thereto, 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 the Authority has power to receive contributions relating thereto and to disburse or arrange for the disbursement of those contributions for the purposes of those works.

(4) In relation to any contract to which subsection (3) applies the Authority shall ensure—

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

(5) 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), 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.

Funds of the
Authority.

50. (1) Save as is in this Act otherwise provided, the expenses of the administration of this Act shall be paid out of the funds of the Authority.

(2) The Authority shall cause annual estimates of the receipts and payments of the Authority relating to its administration of this Act and any other Act administered by the Authority to be prepared, under such headings and in such manner as the Treasurer may approve or direct, 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.

(3) The funds necessary for the effectual exercise by the Authority of its powers shall be—

- (a) such moneys as are from time to time appropriated by Parliament for the purpose;
- (b) the revenue derived by the Authority from rates, charges, moneys due for water supplied or water services provided, interest and rents accrued under the authority of this Act or any other Act administered by the Authority;
- (c) all other moneys received by the Authority under and for the purposes of this Act or any other Act administered by the Authority, including all fees, expenses, restitutions and contributions received pursuant to any of the provisions of this Act or of any other Act administered by the Authority or to any by-laws made thereunder; and
- (d) such moneys as the Authority may borrow or may derive from financial accommodation entered into under and subject to the provisions of this Act,

and those funds shall be paid into and placed to the credit of an account to be called the "Metropolitan Water Authority Account" maintained at the Treasury or in such bank as the Treasurer may approve pursuant to paragraph (f) of subsection (1) of section 46.

(4) The Authority shall pay into the Metropolitan Water Authority Account all moneys received by the Authority, all expenditure incurred by the Authority shall be drawn from that Account, and all such moneys and all financial accommodation made available to the Authority shall be applied pursuant to and for the purposes of this Act or any other Act administered by the Authority.

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

- (a) capital expenditure incurred in connection with the establishment and maintenance of any works vested in or to be carried out by or for the Authority under this Act or any other Act administered by the Authority;
- (b) the cost of operating and maintaining the works and water services vested in or provided by the Authority, including the payment of interest; 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 other Act administered by the Authority, including loan repayments and sinking fund contributions.

(6) 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 has been applied for the purposes of the Authority; 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.

Provisions
and reserves.

51. 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.

52. (1) The due performance of a guarantee given by the Treasurer on behalf of the State under the authority of this Act, whether given pursuant to section 47 or to section 54, 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.

Payment of guarantee moneys, and charges upon the Account and assets.

(2) By virtue of this subsection any sum paid by the Treasurer under any guarantee given by him on behalf of the State under section 47 or section 54, and any obligation of the Authority arising pursuant to an advance made under section 53 of this Act, constitutes a charge upon the Metropolitan Water Authority 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, 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.

Borrowing power, from Treasury sources.

(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.

Power of
Authority to
borrow on
debentures
or stock.

54. (1) Subject to subsection (2), the Authority may at any time and from time to time with the approval of the Governor—

- (a) whether as units of debentures or units of stock, individual debentures or parcels, or classes of debentures or stock, issue and sell debentures or create, issue and sell inscribed stock for the purposes of—
 - (i) raising funds required by the Authority for the effectual exercise by the Authority of the powers conferred by this Act or any other Act administered by the Authority; or
 - (ii) redeeming any loans owing by the Authority; or
 - (iii) paying the expenses incurred in the issue and creation of the debentures or inscribed stock;
- (b) issue such debentures or inscribed stock in exchange for any debentures or inscribed stock issued in respect of moneys previously borrowed by the Authority or the former Board and not repaid; and
- (c) effect any conversion authorised by this section 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 sale of debentures or inscribed stock, or partly in the one way and partly in the other.

(2) The Authority shall not implement the issue and sale of debentures or the creation, issue and sale of inscribed stock under the provisions of this section unless a proposal in writing showing—

- (a) the term and particulars of the proposed issue;
- (b) the rate of interest to be paid on that issue;

- (c) the purposes to which the money proposed to be raised is to be applied; and
- (d) the manner in which any moneys borrowed are to be repaid,

is first submitted by the Authority on the recommendation of the Minister to, and approved of by, the Treasurer.

(3) The due repayment of the principal moneys and the payment of all interest secured by debentures or inscribed stock created or issued by the Authority or the former Board under the provisions of this Act or of the Metropolitan Water Supply, Sewerage, and Drainage Act 1909 is hereby guaranteed by the Treasurer on behalf of the State.

(4) Any moneys to be raised by the Authority pursuant to an issue made under this section shall be secured—

- (a) by the issue of debentures with or without interest coupons attached;
- (b) by the creation and issue of inscribed stock to be called the “Perth Metropolitan Water Authority Inscribed Stock”;
- (c) partly as provided by paragraph (a) and partly as provided by paragraph (b); or
- (d) in such other manner as may be prescribed or as the Governor may approve.

(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 under section 55.

(6) By-laws made under section 55 may provide that the Authority shall have power to purchase its debentures or its inscribed stock (including amounts not comprising a complete parcel) or any

debentures or inscribed stock issued or created by the former Board otherwise than for the purposes of redemption, and to re-issue, sell, or otherwise deal therein.

(7) All debentures and inscribed stock, respectively, issued or created pursuant to this section—

- (a) shall be in a prescribed form;
- (b) shall bear interest at such rate and be redeemable on such date and at such place as the Authority may, with the approval of the Governor, determine;
- (c) may with the consent of the holder or the registered owner thereof, as the case may be, be paid off at any time before the due date for repayment; and
- (d) whether original or not shall rank *pari passu* in point of charge without any preference or priority one over another.

(8) Interest secured by any debentures or inscribed stock issued or created pursuant to this Act shall be payable in such manner, and at such times and places, as is prescribed pursuant to by-laws made under section 55.

(9) The Authority may, at the request of the holder of a debenture or of the registered owner of inscribed stock issued or created upon the same terms pursuant to this Act or by the former Board under the Metropolitan Water Supply, Sewerage, and Drainage Act 1909, in lieu thereof issue to him inscribed stock or debentures, as the case may be, in accordance with the by-laws made under section 55.

(10) The Authority may, and shall if the Treasurer so directs—

- (a) set aside half-yearly, by way of a sinking fund for the purpose of redeeming any loans raised by the Authority, or by the

former Board pursuant to the Metropolitan Water Supply, Sewerage, and Drainage Act 1909, an amount calculated at a rate approved by the Treasurer; and

- (b) deal with moneys so set aside in the manner provided by paragraph (e) of subsection (1) of section 46.

(11) When it is necessary to have resort to any sinking fund referred to in subsection (10) of this section for the purpose of paying off either the whole or any part of any loan in respect of which the fund is provided, the Authority may sell any securities in which the fund is invested, or may obtain an advance thereon from any bank or from the Treasurer.

(12) The Authority shall continue, or cause to be continued on a system approved by the Authority, the register of debentures and the registry of records called "stock ledgers" for the inscription of stock and the recording of matters relating thereto kept by the former Board and utilise them also for the purposes of debentures or inscribed stock issued or created 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 debenture or the creation and issue of any inscribed stock pursuant to this Act, cause to be made in the appropriate register or ledger a record specifying the number, date and amount of the debenture or the names of the purchaser of the stock and the amount of stock purchased by him.

(13) 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.

(14) 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 or inscribed stock, and the Authority or

an officer of the Authority shall not be bound to see to the execution of any trust to which any debenture or inscribed stock may be subject.

(15) The receipt of the person in whose name stock stands in the stock ledger, or if it stands in the names of more persons than one the receipt of one of the persons named in the stock ledger, shall be a sufficient discharge of the Authority for any interest payable in respect of the stock, notwithstanding any trusts to which the stock 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.

(16) If stock is held in joint names and one or more of the registered owners of the stock 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 stock, notwithstanding that a transmission has not been registered as required by this Act.

(17) The transmission of any stock 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.

(18) A person may by power of attorney under his hand and seal appoint some person to be his attorney for any purpose in relation to stock (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.

(19) A register of debentures or stock ledger 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 or ledger is kept, shall be

admissible as and is evidence of any matters required or authorised by or under this Act to be inserted in the register or ledger.

(20) A person advancing money to the Authority and receiving in consideration of the advance a debenture or inscribed stock 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.

(21) The Authority shall use moneys borrowed under the power conferred by this section for the purposes approved by the Treasurer, and not otherwise.

55. By-laws made by the Authority under the Metropolitan Water Supply, Sewerage, and Drainage Act 1909, with the approval of the Treasurer, for the purposes of section 54 may make provision—

By-laws as
to debentures
and
inscribed
stock.

- (a) as to the rights of the bearer of any debenture issued under this Act, and as to the payment of interest coupons;
- (b) for the inspection of, and the supply of copies or extracts from, the register of debentures or stock ledgers, the replacement of lost or defaced debentures or certificates, and the destruction of discharged debentures;
- (c) for the inscription of stock and as to the registration of inscribed stock and the manner of dealing with each stock, 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 such matters; and
- (e) generally, for the purposes of section 54.

Trustee
investments
in debentures,
etc.

56. (1) Debentures and inscribed stock created or issued by the Authority or the former Board 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 debentures or inscribed stock.

(3) Such 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 debentures in his or its hands into such inscribed stock.

Power to
make
provision to
pay off
loans.

57. 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 the former Board, 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.

Accounts.

58. The Authority shall cause to be kept proper accounts and records of its transactions and affairs under such headings and in such manner and form as the Treasurer may from time to time require or approve and shall do all things necessary to ensure that all payments out of the moneys standing to the credit of the Metropolitan Water

Authority Account are correctly made and properly authorised and that adequate control is maintained over the assets of, and purchased from, that Account and over the incurring of liabilities against that Account.

59. 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.

60. 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.

61. (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 as to present a true and fair view of the transactions for the period under review and the financial position at the end of that period and contain any particular information that the Minister directs.

(2) The Auditor General shall inspect and audit the accounts and records of the financial transactions of the Authority and of the Metropolitan Water Authority 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 him 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 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 have been in accordance with this Act and the Metropolitan Water Supply, Sewerage, and Drainage Act 1909; and
- (d) such other matters arising out of the statements as the Auditor General considers should be reported.

(4) The Auditor General shall in respect of the accounting records of the Authority have all the powers conferred on him by the Audit Act 1904 in relation to public accounts.

Annual
report.

62. The Authority shall prepare an annual report of its proceedings and operations during the preceding 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 in each year after receipt of the report of the Auditor General.

63. Any officer of the Authority appointed by the Minister may, for the purposes of this Act or any other Act administered by the Authority, search and obtain copies of the public registers of the Office of Titles and Registry of Deeds, or any office of the Department of Lands and Surveys, the Department of Mines, or the Corporate Affairs Office, without payment of any fee.

Search of
public
registers.

64. No rate, or other imposition which might otherwise be levied by a local authority, and no tax or duty assessed under any Act, shall be 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 other Act administered by the Authority and which are used or reserved exclusively for the purpose of providing works or water services necessary to the performance of the functions of the Authority.

Exemption
from rates,
etc.
