

**CENTRAL WATER AUTHORITY ACT**

Act 20 of 1971 – 19 July 1971

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**CENTRAL WATER AUTHORITY ACT**

**PART I – PRELIMINARY**

**1. Short title**

This Act may be cited as the Central Water Authority Act.

**2. Interpretation**

In this Act—

“Authority” means the Central Water Authority established by section 3;

“Board” means the Central Water Board established by section 7;

“Chairperson” means the Chairperson of the Board;

“Council” means the Water Advisory Council established under section 50;

“existing water right” means any right—

(a) in any irrigation works, water works or any work relating to water;

(b) any right to any water from any river, stream or canal,

being a right, other than in ground water, which belongs to any person or body corporate (other than a body corporate established by law for public purposes) before the commencement of this Act;

“functions” includes powers and duties;

“General Manager” means the person appointed to that office under section 14;

“ground water” means any water under the surface of the ground, and includes underground streams, natural subsurface reservoirs and lakes and any water held underground in a zone of saturation but does not include—

(a) water flowing in or contained in artificial pipes, conduits or reservoirs;

(b) surface water having as its immediate origin atmospheric precipitation or natural springs issuing at the ground surface, and flowing over, or retained on, the surface of the ground;

“member” means a member of the Board and includes the Chairperson;

“Minister” means the Minister to whom responsibility for the Authority is assigned;

“new water right” means any right—

(a) in any irrigation works, water works on any works relating to water;

(b) to any water from any river, stream or canal,

which is granted by the Authority under this Act;

“officer” means any person employed by the Authority;

“polluted water” means water, the composition or quality of which has been so altered by any physical, chemical or biological means or process as to be likely to cause injury to any person, animal or plant using such water;

“vesting day” means, in relation to Part VI, a day to be appointed by the Minister by regulations in respect of the undertaking of the Plaines Wilhems Sewerage Board;

“water resources” means the surface and ground water, of whatever nature, within Mauritius.

[S. 2 amended by Act 4 of 1985; Act 31 of 1989.]

## **PART II – ESTABLISHMENT AND POWERS OF AUTHORITY**

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

(1) There is established for the purposes of this Act a corporation to be known as the Central Water Authority.

(2) The Authority shall be a body corporate.

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

The Authority shall be responsible for the control, development and conservation of water resources.

### **5. Powers of Authority**

(1) Subject to subsection (2), the Authority shall have all the powers of a body corporate.

(2) The Authority shall not, except with the approval of the Minister, sell or exchange any property, or make any donation.

### **6. Directions of Minister**

The Minister may, in relation to the exercise of the powers of the Authority under this Act, give such directions to the Authority as he considers necessary in the public interest and the Authority shall comply with such directions.

### **7. The Board**

(1) The Authority shall be administered and controlled by a Central Water Board.

(2) The Board shall consist of—

- (a) a Chairperson, to be appointed by the Minister;
- (b) a representative of the Ministry responsible for the subject of finance;
- (c) a representative of the Ministry responsible for the subject of energy;

- (d) —
- (e) a representative of the Ministry responsible for the subject of labour and industrial relations;
- (f) 2 members with experience in agricultural, industrial, commercial, financial, scientific or administrative matters, appointed by the Minister.

(3) Every *ex officio* member shall remain a member for as long as he holds the office by virtue of which he became a member and every appointed member shall hold office for not more than 2 years but shall be eligible for reappointment.

(4) The Chairperson shall be appointed by the Minister on such terms and conditions as he thinks fit.

[S. 7 amended by Act 39 of 1982; Act 4 of 1985; Act 4 of 1992.]

## 8. Disqualification

(1) Any person who—

- (a) is a member of the Assembly; or
- (b) is employed by, or holds any interest in, any undertaking with which the Board has any contract,

shall not be qualified to be a member.

(2) A member shall be removed from office on being disqualified from holding office under subsection (1).

[S. 8 amended by Act 39 of 1982; Act 4 of 1985.]

9. —

## 10. Remuneration of members

Every appointed member shall be paid such remuneration and allowances from the General Fund as the Minister may determine.

## 11. Meetings of Board

(1) Subject to subsection (2), the Chairperson shall preside at all meetings of the Board.

(2) In the absence of the Chairperson at any meeting of the Board, the members present shall elect from among themselves a member to preside over that meeting and the member so elected shall, in relation to that meeting, exercise the functions and have all the powers of the Chairperson.

(3) The Board shall meet at least once a month and shall be convened by the Chairperson at such time and place as the Chairperson may appoint.

(4) Five members of the Board shall constitute a quorum.

(5) All acts, matters or things authorised or required to be done by the Board shall be decided by a simple majority of the votes of members present and voting at that meeting.

(6) At any meeting of the Board, each member shall have one vote on the matter in question and, in the event of an equality of votes, the person presiding at that meeting shall have a casting vote.

(7) Subject to this Act, the Board shall regulate its meetings and proceedings in such manner as it thinks fit.

## **12. Attendance of General Manager**

The General Manager shall attend every meeting of the Board and may take part in its deliberations but he shall not be entitled to vote on any question before the Board.

## **13. Execution of documents**

(1) No deed, instrument, contract or other document shall be executed by or on behalf of the Authority unless the approval of the Minister to the execution thereof has first been obtained.

(2) Subject to subsection (1), all deeds, instruments, contracts and other documents shall be deemed to be executed by or on behalf of the Authority if signed by the Chairperson and the General Manager.

(3) Any cheque upon any banking account kept by the Board shall be signed by any 2 of the following persons—

- (a) the Chairperson;
- (b) the General Manager;
- (c) such other officer as may be appointed for the purpose by the Board.

## **PART III – STAFF OF AUTHORITY**

### **14. General Manager**

(1) The General Manager shall be appointed by the Minister on such terms and conditions as he thinks fit.

(2) The General Manager shall act in accordance with such directions as he may receive from the Board or any delegate appointed by the Board under section 17.

[S. 14 amended by Act 4 of 1985.]

### **15. Appointment of officers of Authority**

The Authority may appoint or employ, on such terms and conditions as the Authority may, with the approval of the Minister, determine, such officers as may be reasonably necessary for the purposes of or in connection with the discharge of its duties under this Act.

#### **16. Officers deemed public functionaries**

All officers of the Authority shall be deemed to be public functionaries within the meaning of the Criminal Code.

#### **17. Delegation of powers**

(1) The Board may, subject to such conditions as it thinks fit, delegate to the Chairperson all or any of its powers, functions and duties, except the power to invest and borrow money.

(2) The Chairperson may, with the approval of the Board, delegate in writing to the General Manager or to any other officer any power delegated to him under subsection (1).

[S. 17 amended by Act 4 of 1985.]

#### **18. Superannuation scheme**

The Authority shall make provision for a staff superannuation scheme in relation to all its officers and servants.

#### **19. Other provisions in relation to staff**

The Authority may make provision, in such form as it may determine, to govern the conditions of service of its officers and in particular, but without prejudice to the generality of the foregoing, to deal with—

- (a) the appointment, dismissal, discipline, pay and leave of, and the security to be given by, officers;
- (b) appeals by officers against dismissal and other disciplinary measures;
- (c) the establishment and maintenance of medical benefits and loan funds and the contributions payable to and the benefits recoverable from them.

### **PART IV – FUNCTIONS OF AUTHORITY**

#### **20. Duties of Authority**

(1) The Authority shall be the sole undertaker for the supply of water for domestic, commercial and industrial purposes throughout Mauritius.

(2) The other duties of the Authority shall be to—

- (a) investigate water resources and to collect, correlate, interpret any data with regard to those resources;
- (b) prepare an inventory of water resources and to keep the inventory continuously up to date;
- (c) study and formulate policy in relation to the control and use of water resources for—
  - (i) the provision of water for domestic, industrial and commercial supply and for hydroelectric power;

- (ii) irrigation, land drainage, the reclamation of land, flood control, the development of fisheries, the protection of wild life, afforestation and the control of soil erosion;
  - (iii) the disposal of industrial waste;
  - (iv) the abatement and prevention of pollution of water;
  - (v) any other purpose ancillary to the purposes specified in subparagraphs (i) to (iv) or such other purpose as the Authority may, with the approval of the Minister, determine;
- (d) prepare plans for the conservation, utilisation, control and development of water resources;
  - (e) prepare schemes for the development of river basins and trans-river basins;
  - (f) coordinate and scrutinise the projects undertaken by any person relating to the conservation, utilisation and development of water resources and to assess the technical possibilities, benefits and economic feasibility of the projects;
  - (g) conduct and coordinate research and investigation on the economic use of water;
  - (h) promote, design, construct, operate and maintain schemes and works for the purpose of conservation and development of water resources and for the purposes specified in paragraph (c);
  - (i) inspect any work carried out in relation to water development or utilisation purposes;
  - (j) ensure that water supply conforms with such standards as are laid down by law;
  - (k) grant rights for the use of water and to issue permits, licences and concessions and for this purpose to—
    - (i) establish procedures for the recognition of existing water rights, for the reassessment, variation and reallocation of existing water rights and for the grant of new water rights;
    - (ii) establish procedures for the issue of permits, licences and concessions;
  - (l) subject to any other enactment, supervise the enforcement of any water legislation;
  - (m) collect such fees or rates, charges or other dues on behalf of the Wastewater Management Authority or such other body as the Minister may approve;
  - (ma) perform such other functions as may be conferred on it under any other enactment;
  - (n) advise the Minister on any matter affecting water.

[S. 20 amended by Act 31 of 1989; Act 12 of 1991; s. 49 (2) of Act 39 of 2000 w.e.f. 30 August 2001; s. 99 (2) (b) of Act 19 of 2002 w.e.f. 1 December 2003; s. 29 (4) of Act 13 of 2013 w.e.f. 5 February 2014.]

## **21. Special powers of Authority**

For the purposes of section 20, and subject to the approval of the Minister, the Authority may—

- (a) construct or cause to be constructed, dams, barrages, reservoirs, power houses, power structures, irrigation and drainage canals, water supplies and such other works, structures and devices as may be necessary;
- (b) stock reservoirs and watercourses with fish;
- (c) undertake, in co-operation with the appropriate Ministries, the resettlement of the population displaced by its operations;
- (d) establish co-operative societies, water users' associations and organise irrigation schemes;
- (e) undertake measures for the prevention of malaria and other diseases;
- (f) enter upon or inspect any property at any time between sunrise and sunset;
- (g) establish, maintain and operate laboratories, experimental and research stations and farms for the conduct of experiments and research in relation to any of its functions;
- (h) enter into arrangements with appropriate Ministries, local authorities, educational and research institutions or any person for the purpose of discharging its duties;
- (i) determine and levy rates or fees for the supply of water for any purpose, including sewerage;
- (j) acquire compulsorily, and pay compensation for, any existing water rights;
- (k) discontinue the supply of water of any consumer that discharges polluted water underground or into any canal, river, stream, lake, reservoir or lagoon.

[S. 21 amended by Act 31 of 1989; Act 12 of 1991.]

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

(1) The Authority shall, for and on behalf of the Waste Water Management Authority, collect any fees, rates, charges and other dues payable under the Waste Water Management Authority Act in such manner as may be prescribed under this Act or the Waste Water Management Authority Act.

(2) Every owner or occupier who is liable to pay any fees, rates, charges and other dues specified in subsection (1) shall pay to the Authority the fee, rate, charge or other due, within 21 days of the issue of the bill.



(3) Where a person fails to comply with subsection (2), the Authority shall—

- (a) impose a surcharge of 10 per cent of the amount of fees, rates, charges or other duties that the person owed to the Waste Water Management Authority; and
- (b) may in addition discontinue or disconnect the water supply.

(3A) The Authority may, upon request from the Waste Water Management Authority, waive any surcharge that may have been imposed under subsection (3).

(4) Subject to subsection (2), the Statutory Bodies (Accounts and Audit) Act is amended in Part II of the Schedule by adding in its appropriate alphabetical order, the following—

Waste Water Management Authority

[S. 21A inserted by Act 39 of 2000 w.e.f. 30 August 2001; amended by s. 6 of Act 26 of 2004.]

## 22. Existing water rights

Notwithstanding anything contained in this Part, the Authority shall not, except with the written consent of its owner, exercise any duty imposed under section 20 or any power conferred under section 21 so as to affect an existing water right.

## PART V – FINANCIAL PROVISIONS AND ACCOUNTS

### 22A. Capital of Authority

(1) The initial capital of the Authority shall be 122,993,064 rupees and 10 cents, being the net value of the assets vested in the Authority under section 33 as at 9 July 1973.

(2) The initial capital of the Authority—

- (a) shall be increased by the value of any additional assets vested in the Authority under section 33;
- (b) may be increased by such amount as may be determined by the Board with the approval of the Minister of Finance.

### 23. General Fund

The Authority shall establish a General Fund—

- (a) into which all monies received by the Authority shall be paid; and
- (b) out of which all payments required to be made by the Authority shall be paid.

**24. Authority's power to receive money**

The Authority may receive—

- (a) revenue accruing from rates and fees to be levied under any regulations made under this Act;
- (b) loans raised under this Act; and
- (c) any money properly accruing to the Authority from any other source.

**25. Charges to General Fund**

The Authority may, in furtherance of its objects and in accordance with the terms and conditions upon which its funds may have been obtained, given or derived, charge to the General Fund all remunerations, allowances, salaries, fees, pensions and superannuation fund contributions, gratuities, working expenses and all other charges properly arising, including any necessary capital expenditure.

**26. Loan redemption and depreciation**

The Authority shall make adequate provision for—

- (a) the redemption of loans at due times;
- (b) interest on all other charges and expenses incurred in connection with loans;
- (c) the depreciation or diminution in value of assets.

**27. Estimates**

(1) The Authority shall, at least 4 months before the end of any financial year, draw up an estimate of the income and expenditure of the Authority for the next financial year.

(2) An attested copy of the estimate for the next financial year shall, at least 3 months before the end of each financial year, be submitted to the Minister for his approval.

(3) The Minister in signifying his approval under subsection (2) may—

- (a) approve part only of the expenditure under any item;
- (b) amend the expenditure in respect of any item in such manner as he thinks fit.

(4) No new or additional expenditure shall be incurred before the Minister signifies his approval.

**28.** —

**29. Power to borrow money**

The Authority may, with the consent of the Minister—

- (a) borrow money in such manner as the Minister may determine and subject to such conditions as the Minister thinks fit to impose;

- (b) mortgage or charge its undertaking or property or any part of its undertaking or property and issue debentures, stock or other securities as security for any debt, liability or obligation of the Authority.

30. – 32. –

## PART VI – TRANSFER OF ASSETS AND LIABILITIES

### 33. Vesting of property in Authority

There shall be vested in the Authority on the vesting day by virtue of this section and, without compliance with any other formality, the undertaking of the Plaines Wilhems Sewerage Board and all property (other than any interest in State land), liabilities, benefits and contracts (other than a contract for personal service) relating to the undertaking of the Plaines Wilhems Sewerage Board.

[S. 33 reprinted by Reprint 1 of 1983; amended by Act 48 of 1991.]

### 34. Transfer of rights and liabilities

Any contract entered into by—

- (a) the Government of Mauritius in relation to the Water Development Branch or the Sewerage Branch of the Ministry of Works;
- (b) the Municipality of Port Louis in relation to the water supply undertaking of the Ministry of Works;
- (c) the Plaines Wilhems Sewerage Board in relation to its undertaking,

shall have effect on and after the vesting day as if it had been entered into on the same terms and conditions by the Authority and all obligations, liabilities and arrangements subsisting against the Government of Mauritius, the Municipality of Port Louis or the Plaines Wilhems Sewerage Board, as the case may be, under the contract shall continue to subsist on the same terms and conditions against the Authority.

### 35. Grant of State land

The Government of Mauritius may grant to the Authority upon such terms and conditions as it thinks fit any interest in or over any State land which immediately before the vesting day was occupied, or in relation to which operations were carried on, for the purpose of the Water Development Branch or the Sewerage Branch of the Ministry of Works, the Water Supply undertaking of the Municipality of Port Louis or the undertaking of the Plaines Wilhems Sewerage Board.

[S. 35 amended by Act 48 of 1991.]

**36. Authority not to transfer property**

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

**PART VII – LEGAL PROCEEDINGS**

**37. Proceedings against Authority**

(1) No civil suit shall be commenced against the Authority before the expiry of one month after written notice of intention to commence the suit is served upon the Authority by or on behalf of the intending plaintiff.

(2) A notice of intention issued under subsection (1) shall clearly and explicitly state—

- (a) the cause of action;
- (b) the full particulars of the claim;
- (c) the name and address of the intending plaintiff; and
- (d) the relief claimed.

**38. Service of documents**

(1) Any summons, notice or other document, including a notice under section 37, required or authorised to be served upon the Authority under this Act or any other enactment may, unless there is specific provision to the contrary, be served by delivery to the General Manager at the registered office of the Authority.

(2) Service of process by or on behalf of the General Manager shall be equivalent to service by the Authority.

**39. —**

**40. Protection from liability**

(1) No liability, civil or criminal, shall attach to any member or officer of the Authority in respect of any act which he may have done or omitted to do in good faith in the execution or purported execution of the duties of the Authority under this Act.

(2) This section shall be in addition to, and not in derogation from, the Public Officers' Protection Act and, for the purposes of that Act, every member or officer of the Authority shall be deemed to be a public officer or a person engaged or employed for the performance of a public duty.

**41. Restriction on execution**

Notwithstanding any other enactment, an unsecured creditor of the Authority shall not levy and sell the Authority's immovable property in satisfaction of a judgment debt.

#### 42. Immunity of Authority

The Authority shall not be responsible for any damage resulting from—

- (a) the impurity of water;
- (b) the irregularity and insufficiency of supply of water for whatever purpose.

43. – 45. —

### PART VIII – GENERAL

#### 46. Permit to construct water works

(1) No person shall, except with the written permission of the Authority, construct any irrigation works or other water works.

(2) The Authority may, in granting a permission under subsection (1), impose such conditions as it thinks fit.

(3) Any person who contravenes subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 2,000 rupees.

#### 46A. Discharge of polluted water

(1) No person shall discharge polluted water underground or into any canal, river, stream, lake, reservoir or lagoon.

(2) Any person who contravenes subsection (1) shall commit an offence and shall, on a first conviction, be liable to a fine of not less than 250,000 rupees and to imprisonment for a term not exceeding 2 years and, on a second or subsequent conviction, to a fine of not less than 500,000 rupees together with imprisonment for a term of not less than 2 years.

(3) Notwithstanding—

- (a) section 114 of the Courts Act;
- (b) section 72 of the District and Intermediate Courts (Criminal Jurisdiction) Act,

a Magistrate shall have jurisdiction to try an offence and impose any penalty provided under this section.

[S. 46A inserted by Act 31 of 1989.]

#### 47. Exemption from tax and duties

Notwithstanding any other enactment, the Authority shall be exempted from—

- (a) the payment of customs duty on the materials and equipment imported by or on behalf of the Authority, in accordance with, but subject to, such conditions as the Minister may impose;
- (b) the payment of any licence duty, rates or charges leviable upon immovable property, tenant's tax or any tax leviable on income;

- (c) stamp duty or registration dues in respect of any document signed or executed by the Authority or under which the Authority is a beneficiary.

#### 48. Franking of letters

The Authority is authorised to frank letters or postal packets or make remittances by money orders free of charge.

#### 49. Regulations

The Board may make such regulations as it thinks fit for carrying into effect the provisions of this Act.

#### 49A. Offences

(1) Any person who contravenes any regulations made under this Act shall commit an offence and shall, on conviction, be liable—

- (a) in the case of a domestic consumer, to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 2 years;
- (b) in any other case, to a fine not exceeding 200,000 rupees and to imprisonment for a term not exceeding 2 years.

(2) Where, in any proceedings against the owner or occupier of any premises, it is averred that any water works or sewer has in any manner been interfered with, the fitting of a device to, or the absence of any part, from any works, installation or meter set up or supplied by the Authority shall be *prima facie* evidence of interference with the water works or sewer, as the case may be, unless he proves that the device was fitted or that the part of the works, installation or meter was removed without his knowledge and that he had taken all reasonable steps to ensure that no such act would take place.

(3) The Authority may—

- (a) subject to the concurrence of the Director of Public Prosecutions, authorise any officer, either generally or in respect of any particular matter, to institute criminal proceedings in respect of an offence under this Act or any regulations made under this Act;
- (b) designate an officer to conduct criminal proceedings instituted under paragraph (a).

(4) For the purposes of this section—

“domestic consumer” means a person whom the Authority has agreed to supply water for domestic purposes.

[S. 49A amended by s. 3 of Act 3 of 2005 w.e.f. 26 March 2005.]

## 50. Water Advisory Council

(1) (a) The Minister may appoint a Water Advisory Council.

(b) The Council shall consider such matters affecting the distribution of water and the interests of water consumers in general as may be referred to it by the Minister, by the Board or by water consumers.

(c) The Board shall take into consideration any representation which may be made by the Council on any matter referred to it.

(2) The Council shall consist of—

- (a) a Chairperson, to be appointed by the Minister;
- (b) one person nominated by each of the Municipal City Council or Municipal Town Councils;
- (c) one person nominated by each of the District Councils;
- (d) one person nominated by the Chamber of Agriculture;
- (da) a representative of the Council of Registered Professional Engineers of Mauritius established under the Registered Professional Engineers Council Act;
- (db) a representative of the Faculty of Engineering of the University of Mauritius;
- (e) 2 representatives of the employees of the Authority elected by secret ballot and appointed by the Minister;
- (f) such additional persons, not exceeding 5 in number, as the Minister thinks fit to appoint to represent consumer organisations, industrial and manufacturing sectors, the tourism sector and small and medium enterprises.

(3) The members of the Council shall hold office for such time and subject to such conditions as the Minister may determine.

(4) The Council shall meet as often as the Chairperson may determine.

[S. 50 added by Act 4 of 1985; amended by s. 7 of Act 9 of 2015 w.e.f. 14 May 2015.]

## 51. Repeal\*

(1) The enactments specified in the Schedule shall be repealed on a day to be fixed by Proclamation.

(2) Different days may be fixed in respect of the different enactments specified in the Schedule.

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\* The repeal of the enactments has not been proclaimed.

**SCHEDULE**

[Section 51]

Rivers and Canals Act

Rodrigues Water Rate Regulations

River Rules of 12 June 1885

River Rules of 22 October 1886

Normal Flow of River Regulations

[Sch. amended by Act 12 of 1991.]

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