

GUJARAT WATER SUPPLY AND SEWERAGE BOARD ACT, 1978

18 of 1979

[June 6, 1979]

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GUJARAT WATER SUPPLY AND SEWERAGE BOARD ACT, 1978

18 of 1979

[June 6, 1979]

An Act to provide for the establishment of a Water Supply and Sewerage Board for the rapid development and proper regulation of

water supply and sewerage services in State of Gujarat. It is hereby enacted in the Twenty-ninth Year of the Republic of India as follows :

CHAPTER 1
PRELIMINARY

1. Short title, extent and commencement :-

(1) This Act may be called the Gujarat Water Supply and Sewerage Board Act, 1978.

(2) It extends to the whole of the State of Gujarat excluding the areas comprised in cities and cantonments.

(3) This section shall come into force at once and the remaining provisions shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions, and any reference in any such provision to the date of commencement of this Act shall be construed as reference to the date of coming into force of that provision.

2. Definitions :-

In this Act, unless the context otherwise requires,

(i) "Board" means the Gujarat Water Supply and Sewerage Board established under section 3;

(ii). "bye-laws" means bye-laws made under this Act;

(iii) "cantonment" means a cantonment declared as such under section 3 of the Cantonments Act, 1924;

(iv) "cess-pool" includes a settlement tank or other tank to receive or dispose of foul matters from any premises;

(v) "Chairman" means the Chairman of the Board;

(vi) "City" means a City as constituted under section 3 of the Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949);

(vii) "communication pipe" means any pipe or system of pipes, along with all fittings thereto, by means of which water is supplied to any premises from the main, and includes a connection pipe, service pipe, meter or other fittings;

(viii) "connection pipe" means any water pipe from a ferrule to

stop-cock connecting the main of the local body or the Board, as the case may be with the service pipe;

(ix) "consumer" means any person getting the benefit of any water supply or sewerage service from the local body or the Board, as the case may be;

(x) "domestic sewage" means waste water from residential premises, boarding and lodging houses, hostels, hotels, public places, offices and all such establishments as are not a part of any trade or industry, and arising out of personal and normal human activities such as drinking, bathing, ablution, washing and cooking;

(xi) "drain" means a sewer, tunnel, pipe, ditch, gutter or channel or any cistern, flush-tank septic tank or other device for carrying off or treating sewage, offensive matter, polluted water, sullage, waste water or sub-soil water, and includes any culvert, ventilation shaft or pipe or other appliances or fittings connected with such drain, and any ejectors, compressed air mains, sealed sewage mains and special machinery or apparatus for raising, collecting, expelling or removing sewage or offensive matter from any place;

(xii) "ferrule" means a ferrule connecting the connection pipe with the main;

(xiii) "Gujarat Public Health Engineering Service" means the organisation functioning for the purpose of providing water supply and sewerage services as a wing of the Health and Family Welfare Department of the Government of Gujarat;

(xiv) "local area" means the area falling within the jurisdiction of a local body;

(xv) "local body" means a municipality or a panchayat established under any law for the time being in force;

(xvi) "main" means a pipe laid by the local body or the Board, as the case may be, for the purpose of giving a general supply of water as distinct from a supply to individual consumers, and includes any apparatus used in connection with such a pipe;

(xvii) "member" means a member of the Board, and includes the Chairman of the Board;

(xviii) "Member-Secretary" means the Member-Secretary of the Board;

- (xix) "municipality" includes the person or committee appointed under clause (c) of sub-section (1) of section 264-B of the Gujarat Municipalities Act, 1963 (Guj. 34 of 1964) for any notified area;
- (xx) "non-official member" means a member, not being an ex-officio member;
- (xxi) "occupier", in relation to any premises, means the following:
- (a) any person for the time being paying or liable to pay rent or any portion thereof to the owner in respect of those premises;
 - (b) an owner who is in occupation of those premises;
 - (c) a tenant of those premises who is exempt from payment of rent;
 - (d) a licensee who is in occupation of those premises; and
 - (e) any person, who is liable to pay damages to the owner in respect of use and occupation of those premises;
- (xxii) "owner", in relation to any premises, means the person who receives the rent of the said premises or who would be entitled to receive the rent thereof if the premises were let, and includes
- (a) an agent or trustee who receives such rent on account of the owner;
 - (b) an agent or trustee who receives the rent of, or is entrusted with, the management of any premises devoted to religious or charitable purposes;
 - (c) a receiver or manager appointed by any Court of competent jurisdiction to have the charge of, or to ***** rights of an owner of the said premises; and
 - (d) a mortgagee-in-possession;
- (xxiii) "premises" means any land or building or any part of a building;
- (xxiv) "prescribed" means prescribed by rules;
- (xxv) "private street" "public street" and "street", in relation to any local area, shall have the meanings assigned to them in the law relating to the local body having jurisdiction over that local area;
- (xxvi) "regulations" means regulations made under this Act;

(xxvii) "relevant local authority law" means

(a) in relation to a municipality, the Gujarat Municipalities Act, 1963 (Guj. 34 of 1964);

(b) in relation to a panchayat, the Gujarat Panchayats Act, 1961 (Guj. VI of 1962);

(xxviii) "rules" means rules made under this Act;

(xxix) "service pipe" means any pipe other than the connection pipe beyond the stop-cock by means of which water is supplied to any premises;

(xxx) "sewage" means night-soil and other contents of water closets, latrines, privies, urinals, cess-pools or drains, and polluted water from sinks, bath rooms, stables and other like places, and includes trade effluents

(xxxi) "sewer" means a closed conduit for carrying sewage, offensive matter, polluted water, waste water or sub-soil water;

(xxxii) "sewerage" means a system of collection of waste water from community from its houses, institutions, industry and public places, the pumping treatment and disposal of such waste water, its effluent, sludge, gas and other end products;

(xxxiii) "stop-cock" means a stop-cock fitted at the end of the connection pipe away from the main for the purpose of switching off and regulating the water supply to any premises;

(xxxiv) "trade effluent" means any liquid either with or without particles of matters in suspension therein, which is wholly or in part produced or discharged in the course of any trade or industry, including agriculture and horticulture, but it does not include domestic sewage;

(xxxv) "water connection" includes

(a) any tank, cistern hydrant, standpipe, meter or tap, situated on any private property and connected with a main or other pipe belonging to the local body or the Board, as the case may be ;

(b) the water pipe connecting such a tank, cistern hydrant, standpipe, meter or tap, with such main or pipe;

(xxxvi) "water supply" means a system of providing water to a community for meeting its requirement for drinking and other

domestic uses, industry, recreation and various public uses;

(xxxvii) "water works" includes water channel (including stream, lake, spring, river or canal, well, other underground water source, pump, galleries, reservoir, cistern, tank), duct, whether covered or open treatment units sluice supply main culvert, engine, water-truck, hydrants, standpipe, conduit and machinery, land building or other things for supplying or used for supplying water or for protecting sources of water supply or for treatment of water,

CHAPTER 2

ESTABLISHMENT, CONDUCT OF BUSINESS, DUTIES AND POWERS OF THE BOARD

3. Establishment of the Board :-

(1) As soon as may be after the commencement of this Act, the State Government shall, by notification in the Official Gazette, with effect from a date to be specified therein, establish for the purpose of this Act a Board to be called "the Gujarat Water Supply and Sewerage Board".

(2) The Board shall be a body corporate, having perpetual succession and a common seal, with powers, subject to the provisions of this Act, to acquire, hold or dispose of property, both movable and immovable, and to contract, and may sue or be sued by its corporate name aforesaid.

(3) The Board shall be deemed to be a local authority as defined in the Bombay General Clauses Act, 1904 (Bom. I of 1904).

4. Constitution of the Board :-

(1) The Board shall consist of the following members, namely:

(a) the Chairman to be appointed by the State Government, from amongst persons appearing to it to be qualified by reason of wide administrative experience in a managerial capacity or capability as a technical expert, for such appointment;

(b) the Member-Secretary to be appointed by the State Government, who shall be a qualified Engineer, having an administrative experience and experience of water supply and sewerage works;

(c) a representative of the State Government from the Health and Family Welfare Department, not below the rank of Deputy Secretary to Government, to be appointed by the State

Government ex-officio;

(d) a representative of the State Government from the Panchayats, Housing and Urban Development Department or from the Planning Department, not below the rank of Deputy Secretary to Government, to be appointed by the State Government, ex-officio;

(e) a representative of the State Government from the Finance Department, not below the rank of a Deputy Secretary to Government, to be appointed by the State Government, ex-officio;

(f) three members to be appointed by the State Government from amongst the elected heads of the local bodies;

(g) four members to be appointed by the State Government, who are experts in economic or development planning and engineering.

(2) The names of the persons appointed as non-official members shall be published in the Official Gazette.

5. Disqualification for being non-official member :-

A person shall be disqualified for being appointed or continuing as a non-official member, if he

(a) has been convicted of an offence involving moral turpitude;

(b) is an undischarged insolvent;

(c) is of unsound mind and stands so declared by a competent Court;

(d) hold, except as provided in sections 6 and 7, any office of profit under the Board.

(e) has, directly or indirectly by himself or by any partner, employer or employee, any share or interest, whether pecuniary or of any other nature, in any contract or employment with, by or on behalf of, the Board; or

(f) is a Director, Secretary, manager or other officer of any company, which has any share or interest in any contract or employment with by or on behalf of, the Board :

Provided that a person shall not be disqualified under clause (e) or clause (f) by reason only of his or the company of which he is a Director, Secretary, Manager or other officer having a share or interest in

- (i) any sale, purchase, lease or exchange of immovable property or any agreement for the same;
- (ii) any agreement for loan of money or any security for payment of money only;
- (iii) any newspaper in which any advertisement relating to the affairs of the Board is published;
- (iv) the occasional sale to the Board, upto a value not exceeding ten thousand rupees in any one year, of any article in which he or the company regularly trades.

6. Term of office of members :-

(1) The Chairman, unless appointed ex-officio, shall hold office for three years:

Provided that his term of office may be determined earlier by the State Government, by notification in the Official Gazette.

(2) The Member-Secretary shall hold office for such period as the State Government may by order specify.

(3) A Person appointed as member under clause (f) of sub-section (1) of section 4 shall hold office for three years:

Provided that, he shall cease to be a member

(a) if he ceases to be the elected head of the local body concerned, or

(b) if his term is determined earlier by the State Government by notification in the Official Gazette.

(4) A person appointed as member under clause (g) of sub-section (1) of section 4 shall hold office for three years :

Provided that, his term of office may be determined earlier by the State Government by notification in the Official Gazette.

(5) The members shall be eligible for reappointment.

(6) Any member may at any time resign his office by writing under his hand addressed to the State Government, and on such resignation being accepted, he shall be deemed to have vacated his office.

7. Other provisions regarding members :-

(1) The Chairmam and the Member-Secretary shall be paid from the Board Fund such salary and allowances as may be fixed by the State Government.

(2) The other members of the Board shall be paid such allowances as may be fixed by the State Government.

(3) If any member is by infirmity or otherwise rendered temporarily incapable of carrying out his duties or is absent on leave in circumstances not involving the vacation of his appointment, the State Government may appoint another person to officiate for him and to carry out his functions under this Act.

8. Officers and servants of the Board and their recruitment and conditions of service :-

1 [

(1)

(a) The Board may appoint such officers and servants as it considers necessary for the efficient discharge of its duties and performance of its functions against any posts (not being posts referred to in clause (b), sanctioned by it.

(b) The Board shall not appoint any officers and servants whose maximum monthly salary exclusive of allowances exceeds sixteen hundred rupees per month, unless posts for such officers and servants are sanctioned by the State Government.]

(2) The recruitment and the conditions of service of the officers and servants of the Board shall be such as may be determined by regulations,

(3) The Board may, with the previous approval of the appropriate Government, appoint a servant of the Central Government or the State Government as an employee of the Board on such terms and conditions as it thinks fit

(4) Subject to the superintendence of the Board, the Member-Secretary shall be the Chief-Executive Officer of the Board who shall supervise and control all its officers and servants including any officers of Government appointed on deputation to the Board.

1. These words were substituted for the words "Subject to the Provisions of this Act" by Guj. 26 of 1980, s. 3.

9. Authentication of orders etc. of the Board :-

All proceedings of the Board shall be authenticated by the signature of the Chairman or of any member authorised by the Chairman and all other orders and instruments of the Board shall be authenticated by the signature of the Member-Secretary or of any other officer of the Board as may be authorised in this behalf by regulations.

10. Assistant of Government officers ect :-

(1) The Board may invite any officer of Government or local body or other person to attend its meeting for the purpose of assisting or advising it on any matter.

(2) Such officer or person shall have right to speak in, and otherwise take part in the proceedings of the Board, but shall not be entitled to vote.

11. Delegation of powers :-

¹ [Subject to the provisions of this Act and any general or special order made by the State Government in this behalf the Board may, by general or special order, delegate, either unconditionally or subject to such conditions including the condition of review by itself, as may be specified in the order, to any committee appointed by it or to. the Chairman or the Member- Secretary or any other officer of the Board such of its powers, duties and functions under this Act as it deems fit, not being its powers, duties and functions under sections 42, 77 and 78.

1. These words were substituted for the words "Subject to the Provisions of this Act" by Guj. 26 of 1980, s. 3.

12. Disqualification for participation in proceedings of the Board or Committee on account of interest :-

(1) Any member of the Board or of a committee appointed by the Board who

(a) has any share or interest of the nature described in clause (e) or clause (f) of section 5 in respect of any matter, of

(b) has acted professionally, in relation to any matter on behalf of any person having therein any such share or interest as aforesaid, shall not, notwithstanding anything contained in the proviso to section 5, vote or take part in any proceedings (including any discussion on any resolution or question) of the Board or committee thereof relating to such matter.

(2) If any member of the Board or of a Committee appointed by

the Board has directly or indirectly any interest in any area in which it is proposed to acquire land for any of the purposes of this Act, he shall not take part in any meeting of the Board or committee thereof in which any matter relating to such land is considered.

(3) Nothing in sub-section (1) or (2) shall prevent any member of the Board or a committee thereof from voting on, or taking part in the discussion of, any resolution or question relating to any subject other than a subject referred to in these sub-sections.

13. Acts not to be invalidated by vacancy informality etc :-

No act done or proceedings taken under this Act by the Board or a committee appointed by the Board shall be invalidated merely on the ground of

(a) any vacancy of a member or any defect in the constitution or reconstitution of the Board or a committee thereof; or

(b) any defect or irregularity in the appointment of a person as a member of the Board or of a committee thereof; or

(c) any defect or irregularity in such act or proceedings, not affecting the substance.

14. Duties and functions of the Board :-

The duties and functions of the Board shall be as follows, namely :

(a) to prepare, execute, promote and finance the schemes for supply of water and for sewerage and sewage disposal;

(b) to render all necessary services in regard to water supply and sewerage to the State Government and local bodies and on request to private institutions or individuals also;

(c) to prepare draft State Plans for water supply, sewerage and drainage on the directions of the State Government.

(d) to review and advice on the tariff, taxes, fees, and charges of water supply and sewerage systems, in the areas comprised within the sphere of operation of the water supply and sewerage services of the Board and in the areas of the local bodies which have entered into an agreement with the Board;

(e) to assess the requirements of materials and arrange for their procurement and utilisation;

(f) to establish State standards for water supply and sewerage

services;

(g) to review annually the technical, financial, economic and other aspects of water supply and sewerage system of every scheme of the Board or the local bodies which have entered into an agreement with the Board.

(h) to establish and maintain a facility to review and apprise the technical, financial, economic and other pertinent aspects of every water supply and sewerage scheme in the State;

(i) to operate, run and maintain any water works and sewerage system if and when directed by the State Government, on such terms and conditions and for such period as may be specified by the State Government.

(j) to assess the requirements for man-power and training in relation to water supply and sewerage services in the State;

(k) to carry out applied research for efficient discharge of the duties and functions of the Board;

(l) to perform such of the duties and functions, which are being performed by the Gujarat Public Health Engineering Service, as may be specified, from time to time, by the State Government;

(m) to perform and discharge such other duties and functions as are allotted to the Board under other provisions of this Act or as may be entrusted to it by the State Government.

15. Powers of the Board :-

(1) The Board shall, subject to the other provisions of this Act, have power to do anything which may be necessary or expedient for performing its duties and discharging its functions under this Act.

(2) Without prejudice to the generality of the foregoing provisions, such powers shall include the power

(a) to inspect all water supply and sewerage facilities in the State by whomsoever they are operated;

(b) to obtain such periodic or specific information from any local body and operating agency as the Board may deem necessary;

(c) to provide training for its own personnel as well as for employees of the local bodies;

- (d) to prepare and carry out schemes for water supply and sewerage;
- (e) to lay down the schedule of fees and other charges for all kinds of services rendered by the Board to the State Government, local bodies, institutions or individuals;
- (f) to enter into contract or agreement with any person or persons as the Board may deem necessary, for performing its duties and discharging its functions under this Act; or
- (g) to adopt its own budget annually;
- (h) to approve tariffs for water supply and sewerage services applicable to the areas comprised within the sphere of operation of such services of the Board; and within the jurisdiction of such local bodies as have entered into an agreement with the Board;
- (i) to manage all its affairs so as to provide the people of the area within its jurisdiction with whole some water and, where feasible, efficient sewerage service;
- (j) to take such other measures, as may be necessary, to ensure water supply in times of any emergency;
- (k) to acquire, possess and hold lands and other property and to carry any water or sewerage works through, across, over or under any highway, road, street, or place and after reasonable notice in writing to the owner or occupier, into, through, over or under any building or land;
- (l) to abstract water from any natural source and dispose of waste water;
- (m) to raise, borrow or secure money on such terms and conditions as may be expedient, and in particular by way of loans and advances, deposits and issue of debentures and obtain subventions or mortgages from public institutions like the Life Insurance Corporation of India, Banks and any international organisations or from the State and Central Government, for drinking water supply and sewerage schemes or any other schemes for improvement of sanitation;
- (n) to receive grants from the State Government, the Central Government and the local bodies for water supply and sewerage or any other sanitation improvement schemes;

- (o) to repay instalments of loans and pay interest on the principal thereof to the lenders as per mutually agreed terms and conditions;
- (p) to advances loans to the local bodies or Government for their water supply and sewerage schemes on such terms and conditions as may be specified by the Board;
- (q) to recover from the local bodies or Government principal and interest thereon in respect of loans advanced to them by the Board;
- (r) to incur such expenditure as the Board may deem necessary for performing its duties and functions under this Act;
- (s) to exercise such other powers as are conferred on the Board under other provisions of this Act.

16. Powers of the Board to give directions and to call for returns, reports, etc :-

(1) Notwithstanding anything contained in any other law for the time being in force, the Board may give such directions to any local body, with regard to the implementation of any water supply or sewerage scheme financed by it under clause (a) of section 14, as it thinks fit, and such body shall be bound to comply with such directions.

(2) In case any local body is aggrieved by any such directions or experiences any difficulty in complying with the same, it shall refer the matter to the State Government, whose decision thereon shall be final.

(3) The Board shall have power to call for any return, statement of accounts report, statistics or other information from any local body or other body or individual, which is required by it for the exercise of its powers and performance and discharge of its duties and functions under this Act, and such body or individual shall be bound to furnish such information.

17. Supervision and centage charges :-

The Board may include in the cost of any scheme or work the execution or further execution whereof is undertaken under clause (a) of section 14, supervision and centage charges at such rate, not exceeding such limit as may be prescribed, as it may determine under clause (e) of sub-section (2) of section 15.

CHAPTER 3

TRANSFER OF ASSETS, LIABILITIES AND EMPLOYEES OF THE GUJARAT PUBLIC HEALTH ENGINEERING SERVICE TO THE BOARD

18. Vesting and transfer of property to the Board :-

(1) From such different dates as may be specified, from time to time by the State Government (hereinafter in this section referred to as "the appointed date"),

(a) the properties and assets (including water works, buildings laboratories, stores, vehicles, furnitures and other furnishing) specified in that behalf, which immediately before the appointed date were vested in the State Government for the purpose of the Gujarat Public Health Engineering Services, shall vest in and stand transferred to the Board; and

(b) the rights, liabilities and obligations of the State Government, whether arising out of any contract or otherwise, pertaining to the said Service, shall be the rights, liabilities and obligations of the Board.

(2) Such properties, assets, rights, liabilities and obligations shall be valued in such manner as the State Government may determine.

(3) Where immediately before the appointed date the State Government is a party to any legal proceedings with respect to any properties and assets transferred to the Board under clause (a) of sub-section (1) or with respect to any of the rights, liabilities or obligation, which have become the rights, liabilities or obligations of the Board, under clause (b) of sub-section (1), the Board shall be deemed to be substituted for the State Government as a party to those proceedings and the proceedings shall continue accordingly.

19. Decision of the State Government on the vesting of property to be final :-

Where any doubt or dispute arises as to whether any property or asset has vested in the Board under section 18 or any rights, liabilities or obligations have become the rights, liabilities and obligations of the Board under that section, such doubt or dispute shall be referred to the State Government, whose decision shall be final.

20. Transfer of Government employees to the Board :-

(1) On and after the establishment of the Board, the State

Government may, from time to time, direct that the services of such of the existing officers and servants of the State Government in the Gujarat Public Health Engineering Service, who in its opinion, are rendered surplus to its requirements, shall stand terminated and their posts shall stand abolished, from such date as may be specified by it (hereinafter in this section referred to as "the appointed date") and shall on that date (which may be different for different officers and servants) become the officers or servants of the Board.

(2) Every permanent or temporary employee of the Gujarat Public Health Engineering Service in respect of whom a direction is issued under sub-section (1) shall, on and from the appointed date, be a permanent or temporary employee of the Board, as the case may be, against a permanent or temporary post, which shall stand created in the establishment of the Board with effect from the appointed date.

(3) Any officer or servant so transferred shall hold his office under the Board on the same tenure, remuneration and other conditions of service and with the same rights and privileges as to pension, gratuity, provident fund and other matters as he would have held on the appointed date if this Act had not come into force, until his employment under the Board is duly terminated or his remuneration or other conditions of services are duly revised or altered by the Board in pursuance of the law which for the time being governs his conditions of service :

Provided that, the condition of service applicable immediately before the appointed date to the case of any such officer or servant shall not be varied to his disadvantage, except with the previous approval of the State Government.

(4) Any service rendered by such Government servants under the State Government shall be deemed to be service rendered under the Board.

(5) The sums standing to the credit of the employees referred to in sub-section (1) in any pension, gratuity, provident fund or other like funds constituted for them shall be transferred by the State Government to the Board along with any accumulated interest due till the appointed date and with the accounts relating to such funds.

(6) On and after the appointed date, the Board shall, to the exclusion of the State Government, be liable for payment of

pension, provident fund, gratuity or other like sums as may be payable to employees referred to in sub-section (1) at the appropriate time in accordance with the conditions of their service.

(7) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (XIV of 1947), or in any other law for the time being in force, the transfer of services of any employee to the Board under Sub-section (1) shall not entitle any such employee to any compensation under that Act or such other law and no such claim shall be entertained by any Court, tribunal or authority.

(8)

(a) Nothing contained in sub-section (1) shall apply to any employee who by notice in writing given to the State Government within two months from the appointed date or such extended time as the State Government may, by general or special order, specify, intimates his intention of not becoming or continuing as an employee of the Board.

(b) Where such notice is received from any employee

(i) in case of a permanent employee, he shall be allowed to retire giving him the benefit of pension, gratuity, provident fund and other benefits accrued to him had he retired from the Government service on the appointed date;

(ii) in case of a temporary employee, his services shall stand terminated after giving him notice or remuneration in lieu of notice as per the existing service rules of the State Government.

(9) Notwithstanding anything contained in the foregoing sub-sections

(a) no person employed in the Gujarat Public Health Engineering Service to whom any notice or order of termination of his services or compulsory retirement has been issued before the date of commencement of this Act shall be transferred to the Board.

(b) the transfer of a person employed as aforesaid against whom any disciplinary proceeding is pending shall initially be provisional and the State Government shall review such transfer after the final order as a result of such disciplinary proceedings is passed and thereafter pass such order as may appear to it to be appropriate in the circumstances of the case;

(c) the disciplinary or other action in relation to any person referred to in clause (a) or clause (b) may be taken after the date mentioned in clause (a) in such manner and by such authority as the State Government may by general or special order specify in this behalf;

(d) if the services of any employee of the State Government stand transferred under sub-section (1) or sub-section (2) to the Board, the Board shall be competent after such transfer to take such disciplinary or other action as it thinks fit against or in respect of such employee having regard to any act or omission or conduct or record of such employee while he was in service of the State Government.

(10)

(a) For the purpose of enabling the Board to discharge its functions and duties under this Act, it shall be lawful for the State Government to direct, by a general or special order, that such of officers of the State Government shall be posted under the Board for such period and subject to such conditions as may be specified in the order and accordingly the officers specified in the order shall be posted under the Board.

(b) The pay and allowances of any officer posted in accordance with clause (a) under the Board shall, during the period of posting, be paid by the Board from its fund.

CHAPTER 4

TAKING OVER OF WATER SUPPLY AND SEWERAGE SERVICES FROM LOCAL BODY BY BOARD

21. Vesting of existing water supply and sewerage services in the Board :-

(1) Notwithstanding anything contained in any law for the time being in force the Board may at any time with the previous approval of the State Government, take over any existing water supply and sewerage services from any local body for operation, and for maintenance, augmentation or improvement and in such cases

(a) all the existing water supply and sewerage services, sewage works and sewage farms, including, as the case may be, all plants machineries, water works, pumping stations, filter beds, water mains and public sewers in, along, over or under any public street,

and all buildings, lands and other works materials, stores and things appertaining thereto, belonging to or vested in that local body;

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

(c) all rights, liabilities and obligations of such local body relating to the things mentioned in clauses, (a) and (b), including the right to recover any cost or fees or charges relating to water supply and sewerage services and also including liabilities arising from any loans advanced by Government or any other person to the said local body for the things aforesaid, other than loans diverted to or utilised for purposes other than those referred to in clauses (a) and (b), shall, on such date as may be specified by the State Government in the notification, stand transferred to and vested in the Board and be subject to its control.

(2) Such properties, assets, rights, liabilities and obligations shall be valued in such manner as the State Government may determine.

(3) Where any doubt or dispute arises as to whether any property or asset has vested in the Board under sub-section (1) or any rights, liabilities, or obligations have become the rights, liabilities or obligations of the Board under this section, such doubt or dispute shall be referred to the State Government, whose decision shall be final and binding on the Board and the local body concerned.

(4) For taking over any properties or assets of the local body, the Board shall pay to that body such amount and on such terms and conditions as may be mutually agreed upon. In the absence of any such agreement, the State Government shall determine the amount to be paid to the local body on the basis of the valuation made under sub-section (2) and after taking into consideration the statutory duty of the local body to provide water supply and sewerage services, the grants received by the local body from time to time, the outstanding loan liabilities of the local body and such other relevant factors. The decision of the State Government shall be final and binding on the parties.

(5) Notwithstanding anything contained in sub-section (4) the amount payable by the Board to the local body under that sub-section may, at the option of the Board, be treated, wholly or partly, to be the grant of loan to the Board on such terms and conditions as the State Government may specify.

22. Board to assume obligations in respect of matters to which this Act applies for water works taken over from local bodies :-

In respect of water works taken over from a local body by the Board, all debts and obligations incurred, all contracts entered into, all matters and things engaged to be done by, with or for any local body prior to taking over the water works by the Board shall be deemed to have been incurred, entered into or engaged to be done by with or for the Board and all suits or other legal proceedings instituted or which might, but for transfer and vesting under sub-section (1) of section 21, have been instituted, or defended by or against the local body, may be continued or instituted or defended by or against the Board.

23. Taking over of temporary management of water works or sewerage system of local body by Board :-

(1) Notwithstanding anything contained in section 21 or in the relevant local authority law for the time being in force, where the State Government is of opinion, in the case of any water works or sewerage system operated and run by a local body in any area that the operation and management thereof should in public interest be taken over by the Board for a temporary period the State Government may by notification in the Official Gazette, direct the Board to take over for the purpose of operation and management such water works or sewerage system for such period not exceeding five years in the first instance, and on such terms and conditions as may be specified by the State Government in such notification and thereupon the local body concerned shall transfer such works or system to the Board and the Board shall take over from the local body such works or system for the aforesaid purpose and for the period and on the terms and conditions as aforesaid.

(2) It shall be lawful for the State Government to extend from time to time the period specified for the purpose of sub-section (1) in the case of any water works or sewerage system so however that such period in the aggregate does not exceed ten years.

(3) The terms and conditions to be specified under sub-section (1) may also include the terms and condition relating to the restoration of the possession of the water works or sewerage system so taken over to the local body on the termination of the period specified under sub-section (1) or the period as extended under sub-section (2).

(4) The taking over of any water works or sewerage system by the Board under sub-section (1) and the restoration thereof to the local body under sub-section (3) shall not prejudice any rights in respect of such works or system which any other person may be entitled by due process of law to enforce against the local body or the Board, as the case may be.

24. Power of local body to entrust to Board any system for maintenance and operation :-

Notwithstanding anything contained in the relevant local authority law for the time being in force, it shall be lawful for any local body to entrust to the Board, for the purpose of maintenance, operation and running, any water supply scheme or sewerage system wholly or partly, upon such terms and conditions as may be mutually agreed upon.

CHAPTER 5

INVESTIGATION, PREPARATION AND EXECUTION OF SCHEMES BY THE BOARD

25. Investigation and preparation :-

(1) The Board may, ¹[on the direction of the State Government or, as the case may be, at the request of a local body, institution or individual], investigate the nature and type of a scheme that such local body may like to be under taken by the Board for providing water-supply and sewerage facilities in any area, having regard to the economical and other local conditions of such area in all their aspects, undertake survey of such area and decide upon the feasibility of preparing or implementing such scheme.

(2) As soon as the investigation undertaken by the Board is completed with respect to any area and the Board considers it feasible to prepare or implement the scheme, it shall give intimation of its decision to undertake such scheme ²[to the State Government, local body, institution or, as the case may be, individual] under whose jurisdiction such area falls and prepare a preliminary scheme stating therein an estimate of the expenditure that is likely to be incurred in regard to the scheme and also the

other salient feature thereof.

3[(2A) The Board shall forward the preliminary scheme to the State Government local body, institution or, as the case may be, individual for approval.]

(3) **4**[Where the preliminary scheme is approved by the State Government, local body, institution or, as the case may be, individual, the Board shall prepare.] a detailed phased programme in the manner prescribed for the execution of the scheme and work out priorities with the approval of the Government.

(4) After the priorities have been worked out and approved by the State Government, the Board shall prepare a draft scheme consistent therewith.

(5) The Board shall, in a meeting convened for the purpose, examine the draft scheme in all its aspects. A representative of **5**[the State Government, local body or institution concerned or, as the case may be, the individual concerned] in the scheme, shall be invited to attend such meeting. Each such person may participate in the discussion and express his opinion about any aspect of the scheme.

6 [(6) If the Board on a detailed examination is satisfied about the feasibility of the draft scheme it may, by a resolution passed by it approve the draft scheme, having regard to such restrictions as to the expenditure to be incurred for providing water supply and sewerage facilities as may be imposed by the State Government by a general or special order made in that behalf.]

1. These words were substituted for the words "at the request of a Local body" by Guj. 26 - of 1960, s.4(1).

2. These words were substituted for the words "to the local body" by Guj. 26 of 1980, s. 4(2).

3. Sub-section 2(A) was inserted, *ibid.*, s. 4(3).

4. These words were substituted for the Words "The Board shall also prepare" *ibid.*, s. 4(4).

5. These words were substituted for the words "the local body concerned" *ibid.*, s. 4(5).

6. Sub-section (6) was substituted, *ibid.*, s. 4(6).

26. [Approval of scheme by State Government.] :-

Deleted by Guj. 26 of 1980, s. 5.

27. Approved scheme :-

The resolution passed by the Board under sub-section (6) of section 25 approving the scheme shall be conclusive evidence of the scheme having been duly made and approved and on such approval the scheme shall become final and be called "the approved scheme".]

28. Execution of the approved scheme by the Board :-

It shall be the duty of the Board to execute the approved scheme subject to the priorities approved by the State Government under sub-section (4) of section 25: Provided that the Board shall not undertake execution of an approved scheme unless a contract is made in that behalf between the Board and the State Government, local body, institution or, as the case may be, individual, specifying among other things the approved scheme and the terms and conditions for its execution by the Board.]

29. Cost of scheme :-

The cost of investigation, preparation and execution of any such scheme undertaken by the Board shall be recoverable from the State Government, local body, institution or, as the case may be, individual in such manner and in such instalments as specified in the contract referred to in section 28.

Explanation. The cost relating to the investigation, preparation and execution of any scheme by the Board shall include all incidental expenses incurred by the Board in connection therewith].

30. 3[Adequate facilities to be provided to the Board.] :-

¹[The State Government, local body, institution or individual concerned] with an approved scheme shall provide necessary assistance to the Board for the proper execution of the approved scheme ² [within the area of jurisdiction of State Government, local body, institution or individual.].

1. These words were substituted for the words "A local body concerned" *ibid.*, s. 9(1).

2. These words were substituted for the words "within the territorial limits of such local body" *ibid.*, s. 9(2).

31. Transfer of finally executed scheme to local body 7[*] :-**

(1) When an approved scheme has been finally executed of the Board, all works completed thereunder and the property appurtenant thereto shall be transferred ¹[to the State

Government, local body, institution or individual concerned] in such manner and subject to such conditions as may be prescribed and it shall thereafter be the responsibility of ²[the State Government or such local body, institution or, as the case may be, individual] to maintain them.

(2) The local body shall levy such rates for water supply and sewerage as may be suggested to it by the Board.

(3) If a dispute arises as to the property which is to pass to a ³[local body, institution or individual] along with the works executed under a scheme, it shall be referred to the State Government for decision and such decision shall be final.

1. These words were substituted for the words "to the local body concerned" *ibid.*, s. 10 (1)(a).

2. These words were substituted for the words "such local body" *ibid.*, s. 10(1)(b).

3. These words were substituted for the words "local body" *ibid.*, s. 10(2).

CHAPTER 6

CONTRACT, FINANCE, ACCOUNTS AND AUDIT

32. Execution of contract by Board :-

Every contract or assurance of property on behalf of the Board shall be in writing and executed by such authority or officer and in such manner as may be provided by regulations.

33. Board Fund :-

The Board shall establish a fund to be called "the Board Fund", which shall be deemed to be a local fund and to which shall be credited all moneys received by or on behalf of the Board, otherwise than by way of loans.

34. Other funds of the Board :-

(1) The Board shall also establish another fund to be called "the Loan Fund", which shall also be deemed to be a local fund and to which shall be credited all moneys received by or on behalf of the Board by way of loans.

(2) The Board may, with the previous approval of the State Government establish such other funds as may be necessary for the efficient performance of its duties and discharge of its functions under this Act.

35. General principles for the Boards finance :-

The Board shall not, as far as practicable, and after taking credit for any grant or subvention from the State Government under section 36 carry on its operations under this Act at a loss.

36. Grants and subventions to the Board :-

The State Government may, after appropriation duly made in this behalf, from time to time, make grants and subventions to the Board for the purpose of this Act, on such terms and conditions as the State Government may determine.

37. Loans to the Board :-

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

38. Initial contribution of Government to the Board fund :-

After appropriation duly made in this behalf, the State Government may make an initial contribution to the Board fund of rupees one crore or such lesser sum as it thinks fit.

39. Power to borrow and relend :-

(1) The Board may, from time to time, with the previous sanction of the State Government and subject to the provisions of this Act and to such conditions as the State Government may, by general or special order, impose, borrow any moneys required for the purpose of this Act by making arrangements with the banks or other bodies or institutions approved by the State Government for this purpose.

(2) The Board may advance any part of such borrowings to any local body for the performance of its duties and discharges of its functions relating to water supply and sewerage services on such terms and conditions as the Board may determine.

1 [(3) Notwithstanding that this Act does not extend to Cities and notwithstanding anything contained in sub-section (1), the Board may from time to time at the request of the Municipal Corporation of a City, constituted under the Bombay Provincial Municipal Corporations Act, 1949 and with the previous sanction of the State Government and subject to such conditions as the State Government may, by general or special order, impose, borrow any moneys required by the Municipal Corporation for any scheme for providing water supply and sewerage facilities undertaken by that Corporation, by making arrangement for this purpose, and advance

the moneys so borrowed to the Corporation for the purpose of such scheme on such terms and conditions as may be approved by the State Government].

1. Sub-section (3) was added by Guj. 26 of 1980, s.11

40. Depreciation reserve :-

The Board shall create a depreciation reserve and make annual provision therefor in accordance with such principles as may be prescribed.

41. Government as guarantor :-

The State Government may guarantee the repayment of any loan and payment of interest on all or any of the loans given or transferred to the Board for the purpose of this Act.

42. Accounts and audit :-

(1) The Board shall, before the commencement of, and may at any time during, a financial year, prepare a statement or a supplementary statement, as the case may be, of the programme of its activities during that year as well as a financial estimate in respect thereof and the same shall be submitted to the State Government in such form and by such dates as the State Government may, by general or special order, direct, for the previous approval of the State Government.

Provided that, in the event of such previous approval not being received before the commencement of the financial year for which such financial statement has been submitted, the Board shall be entitled to expend on all accounts upto an amount not exceeding the amount approved for the corresponding period of the previous financial year and such amount shall not include any sum spent out of the grants and subventions during the said period.

(2) The Board shall cause to be maintained such books of account and other books in relation to its accounts and prepare the balance sheet in such form and manner as the regulations may require.

(3)

(a) The accounts of the Board shall be audited by such Auditor, in such manner and at such times, at the State Government may, by general or special order, direct.

(b) The Auditor so appointed shall have such powers of requiring the production of documents and the furnishing of information

respecting such matters, and shall have such powers in respect of disallowance and surcharge as may be prescribed.

(4) The accounts of the Board as certified by the Auditor together with the audit report thereon shall be forwarded annually to the State Government, who may issue such directions to the Board as it may deem fit and the Board shall comply with such directions.

(5) The State Government shall cause the accounts of the Board to be published in such manner as it thinks fit.

CHAPTER 7

FEES AND CHARGES

43. Cost of water :-

(1) The Board shall, by notification in the Official Gazette, fix the cost of water to be supplied according to volume, and also the minimum cost to be charged in respect of each connection.

(2) The Board may, in lieu of charging the cost of water according to volume, accept from any consumer a fixed sum for a specified period on the basis of expected consumption of water during that period.

44. Cost of disposal of waste water :-

(1) The Board shall by notification in the Official Gazette, fix the cost of disposal of waste water according to its volume (which may be such percentage of the volume of total water supplied to the consumer as may be prescribed), and also the minimum cost to be charged in respect of such disposal.

(2) The Board may, in lieu of charging the cost of disposal of waste water according to the basis stated in sub-section (1), accept from any consumer a fixed sum for a specified period.

45. Meter rent and fees for services :-

(1) The Board may provide water meters and charge such rent for the meter as may be provided in the bye-laws.

(2) The Board may charge fees for connection, disconnection and re-connection of any water supply or sewer or testing or supervision or for any other service rendered or work executed or supervised at such rates as may be provided by the bye-laws.

46. Deposits :-

The Board may by bye-laws provide for requiring any consumers or class of consumers to deposit such sums as may be specified therein as security for prompt payment of its dues and due performance of the conditions subject to which services are rendered to them. It shall be lawful for the Board to recover its dues from the amount so deposited.

47. Recovery of sums due to the Board :-

Any sum due to the Board on account of cost of water, cost of disposal of waste water, meter rent, fees, charges or otherwise under this Act, shall, without prejudice to any other mode of recovery be recoverable as arrears of land revenue.

CHAPTER 8
WATER SUPPLY

48. Definition of supply of water for domestic purposes :-

The supply of water for domestic purposes under this Act means supply for any purpose, except the following, namely :

- (a) for any trade, manufacture or business;
- (b) for gardens or for purposes of irrigation;
- (c) for building purposes, including construction of streets;
- (d) for fountains, swimming pools, public bath or tanks or for any ornamental or mechanical purposes;
- (e) for animals, where they are kept for sale or hire or for the sale of their produce;
- (f) for the consumption and use at a restaurant or by inmates of a hotel, boarding house or residential club;
- (g) for the consumption and use by persons resorting to theatres and cinemas;
- (h) for watering streets; or
- (i) for washing vehicles where they are kept for sale or hire;

49. Water supply for domestic purposes not to be used for non- domestic purposes :-

No person shall except in such circumstances or subject to such conditions as may be provided by the bye-laws, use or allow to be used water supplied by the Board for domestic purposes, for any other purpose.

50. Licensed Plumbers :-

(1) No person, other than a plumber licensed by the Board shall execute any work in respect of a water connection not being work of a trivial nature and no person shall permit any such work to be executed by a person other than a licensed plumber.

(2) When any work is executed in contravention of the provisions of sub-section (1), such work shall be liable to be dismantled at the discretion of the Board.

51. Prohibition of wastage of water :-

(1) No owner or occupier of any premises to which water is supplied by the Board shall cause or suffer any water to be wasted, or cause or suffer the service pipe or any tap or other fitting or work connected therewith to remain out of repair so as to cause wastage of water.

(2) Whenever the Board has reason to believe that as a result of defect in a service pipe or tap or other fitting or work connected therewith water is being wasted, the Board may, by written notice, require the consumer to repair and make good the defect within such time as may be specified in such notice.

(3) If such repair is not carried out within the time specified, the Board may, without prejudice to any action which may be taken against the consumer under any other provision of this Act, cause such repair to be made. The cost of such repair shall be realised from the consumer.

52. Power to cut off water supply :-

(1) The Board may cut off the water supply from any premises.

(a) if any fee, rental, cost of water or any charge or other sum due under this Act, is not paid within a period of fifteen days after service of a bill for the same; or

(b) if after the receipt of a written notice from the Board requiring him to refrain from so doing, the consumer continues to use the water or to permit the same to be used in contravention of the provisions of this Act or any rules or regulations or bye-laws; or

(c) if the consumer damages or causes to be damaged the water meter or any connection pipe or ferrule; or

(d) if the consumer refuses to admit any officer or servant of the Board duly authorised in this behalf into the premises which he proposes to enter for the purposes of executing any work or placing or removing any apparatus or of making any examination or inquiry in connection with the water supply or prevents any such officer or servant from executing any work or placing or removing any apparatus or making such examination or inquiry; or

(e) if the service pipe or any tap or other fitting or work connected therewith is found on examination by an officer or servant of the Board duly authorised in this behalf to be out of repair to such an extent as to cause wastage or contamination of water and immediate prevention thereof is necessary; or

(f) if the consumer causes or allows to be caused the service pipe or any tap or other fitting or work connected therewith to be placed, removed, repaired or otherwise interfered with, in contravention of the provisions of this Act or of the rules or regulations or bye-laws; or

(g) if by reason of leakage in the service pipe or any tap or other fitting or work, damage is caused to a public street and immediate prevention thereof is necessary.

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

(3) The Board may reconnect the supply of water disconnected under sub-section (1) on payment of such charges and on such terms and conditions as may be provided by bye-laws.

53. Prohibition of certain other acts :-

(1) No person shall

(a) wilfully obstruct any person acting under the authority of the Board in setting out the lines of any work or pull up or remove any pillar, post or stay fixed in the ground for the purpose of setting out the lines of such works, or deface or destroy any works made for the said purposes; or

(b) wilfully or negligently break, injure, turn on, open close, shut off or otherwise interfere with any cock, valve, pipe meter or other work or apparatus belonging to the Board; or

(c) unlawfully obstruct the flow of or flush, draw off, or divert or take water from any water works belonging to the Board or any water course by which any such water is supplied; or

(d) obstruct any officer or servant of the Board in the performance and discharge of his duties and functions under this Chapter or refuse or wilfully neglect to furnish him with means necessary for the making of any entry, inspection, examination or inquiry thereunder in relation to any waterworks; or

(e) bathe in, at or upon any water works, or wash or throw or cause to enter therein any animal or throw any rubbish, dirt or filth into any water works, or wash or clean therein any cloth, wool, or leather or the skin of any animal, or cause water of any sink or drain or any steam engine or boiler or any other polluted water to turn or be brought into any waterworks, or do any other act whereby the water in any water works belonging to the Board is fouled or likely to be fouled.

(2) Nothing in clause (b) of sub-section (1) shall apply to a consumer closing the stop-cock fixed on the service pipe supplying water to his premises so long as he has obtained the consent of any other consumer whose supply be affected thereby.

CHAPTER 9 SEWERAGE

54. Right of owner or occupier to obtain sewer connection :-

The owner or occupier of any premises shall be entitled to empty sewage of the premises into a sewer of the Board, provided that, before doing so, he

(a) obtains written permission of the Board and pays, connection fee and other charges in accordance with the bye-laws; and

(b) complies with such other conditions as may be provided by the bye-laws.

55. Power to require owner to have sewer connection :-

Where any premises are, in the opinion of the Board, without sufficient means of effectual disposal of sewage and the sewer of the Board is situated at a distance of not more than fifty meters from any part of the premises, the Board may, by written notice, require the owner of the said premises to have sewer connection as provided by bye-laws.

56. Prohibition of connection with sewer without permission :-

No person shall, without permission of the Board, make or cause to be made any connection or communication with any sewer of the Board.

57. Prohibition of construction of private street or building over sewer without permission :-

No person shall, without the permission of the Board, construct any private street, building or other structure on any sewer of the Board.

58. Power to affix shaft etc., for ventilation of sewer on cess pool :-

The Board may, for the purpose of ventilating any sewer or cess-pool, whether vested in the Board or not, erect upon any premises or affix to the outside of any building, or to any tree, any shaft or pipes as may appear to it to be necessary.

59. Power to examine and test sewer etc. believed to be defective :-

(1) Where it appears to the Board that there are reasonable grounds for believing that a private sewer or cess-pool is in such conditions as to be prejudicial to public health or to be a nuisance or that a private sewer communicating directly or indirectly with a sewer of the Board is so defective as to admit sub-soil water or grit or other materials, the Board may examine its conditions and for that purpose may apply any test, not being a test by water under pressure, and if it deems it necessary, open the ground.

(2) If on examination the sewer or cess-pool is found to be in proper condition the Board shall, as soon as possible, reinstate any ground which has been opened by it and determine and pay compensation for the damage caused by it.

60. Prohibition of certain other acts :-

No person shall

(a) wilfully obstruct any person acting under the authority of the Board under this Chapter in setting out the lines of any works or pull up or remove any pillar, post or stay fixed in the ground for the purposes of setting out lines of such work or deface or destroy any works made for the said purposes; or

(b) wilfully or negligently break, injure, turn on, open, close, shut off or otherwise interfere with any lock, valve, pipe or other works or apparatus belonging to the Board and pertaining to its duties and functions under this Chapter; or

(c) unlawfully obstruct the flow of, or flush, draw off or divert or take sewage from any works belonging to the Board; or

(d) obstruct any officer or servant of the Board in discharge of his duties under this Chapter or refuse or wilfully neglect to furnish him with the means necessary for the making of the entry, inspection, examination or inquiry thereunder in relation to any sewage works.

61. Power of entry, survey etc :-

(1) Any officer or servant of the Board authorised by it in that behalf, may, with or without assistants or workmen, enter into or upon any premises in order

(a) to make any inspection, survey, measurement, valuation or inquiry;

(b) to take levels;

(c) to dig or bore into the sub-soil;

(d) to set out the boundaries and the intended lines of work;

(e) to mark such levels, boundaries and lines by placing marks and cutting trenches; or

(f) to do any other thing necessary for the purposes of this Act or any rules or regulations or bye-laws;

Provided that, in exercising the powers under this sub-section due regard shall be paid by the officer or servant of the Board concerned to the social and religious customs of the occupants of the premises.

(2) When any person is entitled to enter into or upon any premises in exercise of the powers under sub-section (1) he may also enter in similar manner into or upon any adjoining premises for any work authorised by or under this Act or for the purpose of depositing therein, any soil, grind stone or other materials or for obtaining access to such work or for any other purpose connected with the execution of the same

(3) It shall be lawful for any authorised officer or servant to make

any entry into any place to open or cause to be opened any door, gate or other barrier

(a) if he considers the opening thereon necessary for the purpose of such entry; and

(b) if the owner or occupier is absent or being present refuses to open such door, gate or barrier.

62. Power to disinfect tanks, pools and wells :-

Any officer or servant authorised by the Board in that behalf may have any tank, pool or well, cleaned or disinfected after notice to the owner or occupier if any, when it appears that such cleaning or disinfection will prevent or check the spread of any dangerous disease. The cost of cleaning or disinfection shall be recoverable by the Board from the owner or occupier of such tank, pool or well.

CHAPTER 10

PENALTIES AND PROCEDURES

63. General penalty :-

Whoever contravenes any of the provisions of this Act or of any rule or by-law or fails to comply with any notice, order or requisition issued under this Act or any rule or bye-law, shall, on conviction, be punished with fine which may extend to one thousand rupees and with further fine which may extend to fifty rupees for every day on which such contravention or failure continues after the first conviction.

64. Cognizance of offence :-

No court shall take cognizance of any offence under this Act, except on the complaint of the Board made within six months next after the commission of the offence.

65. Offences by companies :-

(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was responsible to the company for the conduct of its business as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly;

Provided that, nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised

all due diligence to prevent the commission of such offence.

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

Explanation. For the purposes of this section

(a) 'company' means any body corporate and includes a firm or other association of individuals, and

(b) 'director', in relation to a firm, means a partner in the firm.

66. Power of arrest person committing an offence and refusing to give name and address :-

It shall be lawful for any officer of the Board authorised by it in this behalf to arrest and hand over to the officer in charge of the nearest police station any person who commits or is suspected to have committed an offence punishable under section 63 and who on demand refuses to give his true name and address or where there is reason to believe that name or address given by him is not correct. Such police officer shall adopt such legal measures as may be necessary to cause that person to be taken before a Magistrate with the least possible delay.

67. Compounding of offences :-

(1) The Member-Secretary or any other officer of the Board authorised by it by general or special order in that behalf may either before or after the institution of proceedings for any offence punishable under this Act, accept from any person charged with such offence by way of composition of the offence a sum not exceeding two thousand rupees, as he thinks proper.

(2) On payment of such sum, no further proceedings shall be taken against the said person in respect of the same offence.

CHAPTER 11

EXTERNAL CONTROL

68. Directions to the Board on questions of policy :-

(1) In the performance of its duties and discharge of its functions, the Board shall be guided by such directions on questions of policy as may be given to it, from time to time, by the State Government, in writing.

(2) If any question arises whether any matter is or is not a matter as respects which the State Government may issue a direction under sub-section (1), the decision of the State Government shall be final.

69. Annual report, statistics, returns and other information by the Board :-

(1) The Board shall as soon as may be after the end of each financial year, prepare and submit to the State Government before such date and in such form as the State Government may direct, a report giving an account of its activities during the previous financial year, and the report shall also give an account of the activities, if any, which are likely to be undertaken by the Board in the next financial year. The State Government shall cause every such report to be laid before the State Legislature, as soon as may be after it is received by the State Government.

(2) The Board shall also furnish to the State Government at such times and in such form and manner as the State Government may direct such statistics and returns and such particulars in regard to any proposed or existing activities of the Board or any other matter under the control of the Board as the State Government may, from time to time, require.

CHAPTER 12

MISCELLANEOUS

70. Execution of contracts by Board :-

The provisions of this Act in so far as they are applicable in relation to any water supply scheme or sewerage system shall, so far as may be, be applicable to any part of such scheme or system.

Explanation. For the purpose of this section, "part" means

(i) in relation to a water supply scheme, the part of such scheme from the main source of water supply up to the high level reservoir, (both inclusive), and,

(ii) in relation to sewerage system, the part of the system from the main pumping station upto treatment works and works for disposal

of effluent (all inclusive).

71. Board to entrust its powers and duties to a committee etc :-

If in the opinion of the Board, local conditions so require and it is considered by it necessary or expedient in the interests of the efficiency and improvement of water supply or sewerage services in any area, the Board may, by general or special order, entrust, unconditionally or subject to such conditions as may be specified by it in the order or upon such terms and conditions as may be mutually agreed upon, to a committee or other body appointed by it or to any officer or authority exercising any powers or performing any functions in relation to such area under any law for the time being in force in that area, such of its powers and duties under this Act, as it may deem fit, in relation to any water supply scheme or sewerage system in, such area.

72. Power of Government to issue directions for co-ordination of activities of Board and local Bodies :-

If the State Government is of opinion that it is in the public interest that the Board and other local bodies having jurisdiction over contiguous area should co-ordinate their activities in relation to water supply services or sewerage facilities or both it may issue such directions to the Board and that other local bodies concerned as it may think fit and it shall be the duty of the Board and such local bodies to comply with such directions.

73. 2[Assistance to Board] :-

1 [The State Government, local body, institution or as the case may be, individual shall in relation to its or his approved scheme] render such help and assistance and furnish such information to the Board and shall make available for the inspection and examination of (and if necessary, preparation of copies from) such records, maps, plans, and other documents as the Board may require to perform and discharge its duties and functions under this Act.

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

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

1. These words were substituted for the words "All local bodies shall" by Guj. 36 of 1980, 2. 12(1).

74. General power to pay compensation :-

In any case not otherwise expressly provided for in this Act, the Board may pay reasonable amount as compensation to any person who sustains damage by reason of the exercise of any power vested by or under this Act in the Board.

75. Protection for acts done in good faith :-

No suit, prosecution or other legal proceedings shall lie against the State Government, the Board or the members or any officer or servant of the State Government or of the Board for anything which is in good faith done or purported or intended to be done in pursuance of this Act or any rules, regulations or bye laws.

CHAPTER 13

RULES, REGULATIONS AND BYE-LAWS

76. Rules :-

(1) The power to make rules under this Act shall be exercisable by the State Government by notification in the official Gazette.

(2) Without prejudice to any power to make rules contained elsewhere in this Act, the State Government may make rules consistent with this Act to carry out the purposes of this Act.

(3) All rules made under this Act shall be subject to the condition of previous publication.

(4) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such modification as the State - Legislature may make during the session in which they are so laid or the session immediately following.

(5) Any rescission or modification so made by the State Legislature shall be published in the official Gazette, and shall thereupon take effect.

77. Regulations :-

(1) The Board may, with the previous approval of the State Government, make regulations consistent with this Act and the rules, for the administration of its affairs.

(2) Without prejudice to the generality of the foregoing power, such regulations may provide for all of any of the following, matters namely:

(a) the summoning and holding of meetings of the Board and of the committees appointed by it, the time and place where such meetings are to be held, the conduct of business at such meetings and the number of persons necessary to form quorum thereat;

(b) the recruitment and the salaries and allowances and other conditions of service of employees of the Board;

(c) the powers and duties of the employees of the Board;

(d) the management of the property of the Board;

(e) the execution of contracts and assurances of property on behalf of the Board and authentication of orders and instruments of the Board;

(f) the limits upto which the Member-Secretary shall be competent to incur recurring or non-recurring expenditure in any financial year;

(g) the maintenance of accounts and the preparation of balance sheet by the Board;

(h) the procedure for carrying out the duties and functions of the Board under this Act;

(i) any other matter for which provision is to be or may be made by regulations.

(3) Until any regulations are made by the Board under sub-section (1), any regulations which may be made by it may be made by the State Government and any regulations so made may be altered or rescinded by the Board in exercise of its power under sub-section (1).

78. Bye-laws :-

(1) The Board may, with the previous approval of the State Government, make bye-laws consistent with this Act and the rules, for carrying out the purposes of this Act in respect of any matter affecting the general public.

(2) Without prejudice to the generality of the foregoing power, such bye-laws may provide for all of any of the following matters, namely

(a) the terms and conditions for supply of water for domestic or other purposes;

(b) the installation of meters or the transfer of their connection, and their use, maintenance, testing, disconnection and reconnection, the fees, rent and other charges in respect thereof, including the furnishing of security by the consumer and matters connected therewith;

(c) the fees, rent and other charges to be paid for connection with a sewer of the Board and other terms and conditions for such connections;

(d) any other fees and charges to be paid to the Board for service to the consumers;

(e) any other matter for which provision is to be or may be made by bye-laws