

MAHARASHTRA WATER CONSERVATION CORPORATION ACT, 2000

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MAHARASHTRA WATER CONSERVATION CORPORATION ACT, 2000

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An Act to make special provisions for promotion, operation and rapid development and regulation of watershed and water conservation works, including social forestry and irrigation projects in the State of Maharashtra by establishing the Water Conservation Corporation. WHEREAS it was expedient to make special provisions for promotion, operation and rapid development and regulation of watersheds and water conservation works including social forestry and the irrigation projects in the State of Maharashtra and other matters connected therewith, by establishing the Maharashtra Water Conservation Corporation; AND WHEREAS it was considered necessary to immediately make a law for the same; AND WHEREAS both Houses of the State Legislature were not in session; AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to make a law for the purposes aforesaid and, therefore, promulgated the Maharashtra Water Conservation Corporation Ordinance, 2000 on the 22nd August, 2000 (Mah. Ord. XIII of 2000); AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature; It is hereby enacted in the Fifty-first Year of the Republic of India as follows:-

CHAPTER 1 PRELIMINARY

1. Short title, extent and commencement :-

- (1) This Act may be called the Maharashtra Water Conservation Corporation Act, 2000 .
- (2) It shall extend to the whole of the State of Maharashtra excluding the notified contonment and urban areas, but shall cover irrigation project schemes having irrigable command area upto 250 hectares.
- (3) It shall be deemed to have come into force on the 22nd August 2000.

2. Definitions :-

In this Act, unless the context otherwise requires,-

- (a) "bye-laws" means bye-laws made under this Act;
- (b) "Chairman" means the Chairman of the Maharashtra Water Conservation Corporation;

- (c) "Corporation" means the Maharashtra Water Conservation Corporation established under section 3 ;
- (d) "Irrigation Project" means Minor Irrigation Project or Scheme having irrigable command area upto 250 hectares and shall include command area development and other allied activities;
- (e) "Local Area" means the area falling within the jurisdiction of a local body;
- (f) "local body" means a Zilla Parishad, or Panchayat Samiti or Village Panchayat established under the relevant law for the time being in force;
- (g) "Managing Director" means the executive head who is an employee of the Corporation and whose appointment is made by the State Government but, who receives remuneration from the Corporation Fund for the services rendered;
- (h) "member" means a member of the Corporation and includes the Chairman and Vice-Chairman of the Corporation;
- (i) "Member-Secretary" means the Member-Secretary of the Corporation;
- (j) "Non-official Member" means a member not being an ex officio member,
- (k) "Premises" means any land or building or any part of a building;
- (l) "prescribed" means prescribed by rules made under this Act;
- (m) "regulations" means the regulations made under this Act;
- (n) "rules" means rules made under this Act;
- (o) "State Government" or "Government" means the Government of Maharashtra,
- (p) "Vice-Chairman" means the Vice-Chairman of the Maharashtra Water Conservation Corporation.

CHAPTER 2

ESTABLISHMENT, CONDUCT OF BUSINESS AND EMPLOYEES OF THE CORPORATION

3. Establishment of Maharashtra Water Conservation Corporation :-

- (1) The State Government shall, by notification in the Official Gazette, establish for the purposes of this Act, a Corporation to be called the Maharashtra Water Conservation Corporation.
- (2) The Corporation established under sub-section (1) 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.
- (3) The Head Office of the Corporation shall be at Aurangabad.

4. Constitution of Corporation :-

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

(a) Minister for Water Conservation	Ex Officio Chairman;
(b) Minister of State for	Ex Officio

Water Conservation	Vice-
(c) Minister for Agriculture	Chairman; Ex Officio Member;
(d) Minister for Irrigation	Ex Officio Member;
(e) Secretary to Government, Finance Department	Ex Officio Member;
(f) Secretary to Government, Planning Department	Ex Officio Member;
(g) Secretary to Government, Forests Department	Ex Officio Member;
(h) Secretary to Government, Agriculture Department.	Ex Officio Member;
(i) Secretary to Government, Irrigation Department	Ex Officio Member;
(j) Secretary to	

Government, Water Conservation Department/Employment Guarantee Scheme.	Ex Officio Member;
(k) Secretary to Government, Rural Development	Ex Officio Member; Department.
(l) Director, Maharashtra Remote Sensing	Ex Officio Member; Application Centre, Nagpur.
(m) Director, Ground Water Surveys and Development Agency, Pune	Ex Officio Member;
(n) Managing Director	Ex Officio Member;
(o) five members to be nominated by the State Government, from amongst the members of the Maharashtra legislative Assembly;	

(p) two members to be nominated by the State Government from amongst the members of the Maharashtra Legislative Council;

(q) one member to be nominated by the State Government, having special knowledge or practical experience in the field of Irrigation;

(r) one member to be nominated by the State Government having special knowledge in the field of Finance,

(s) The Member-Secretary to be appointed by the State Government but he shall have no right to vote.

(2) Notwithstanding anything contained in this Act, from the date of coming into force of this Act, all the powers, duties and functions of the Corporation shall, at any time, be exercised, performed and discharged by the ex officio members, who are for the time being holding offices specified in clauses (a) to (n) of sub-section (1), and the Corporation shall be deemed to have been validly constituted, even though all or any of the other members may or may not have been appointed for the time being.

(3) Appointments made, from time to time, as members under clauses (o), (p), (q), (r) and (s) of sub-section (1) shall be published in the Official Gazette.

(4) The members of the Corporation nominated under clauses (o), (p), (q) and (r) of sub-section (1) shall receive such fees and allowances as may be laid down by the regulations.

5. . Executive Committee :-

(1) There shall be an Executive Committee consisting of the following members, namely:-

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(a) Managing Director of the Corporation	Chairman;
(b) Chief Engineer, Irrigation (Local Sector), Pune	Member;
(c) Director, Soil Conservation and Watershed Management, Pune.	Member;
(d) Director, Social Forestry, Pune	Member;
(e) Chief Accounts and Audit Officer of the Corporation	Member;

(2) The appointment of Managing Director and Chief Accounts and Audit Officer shall be made by the State Government on such terms and conditions as it may think fit.

(3) The powers, functions and duties of the Executive Committee shall be such as laid down by regulations.

6. Disqualification for being non-official member and removal of such member :-

(1) A person shall be disqualified for being appointed or continued as 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 the competent Court;

(d) holds, except as provided in section 7, any office of profit under the Corporation,

(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 Corporation; 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 Corporation:

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

(i) any sale, purchase, lease or exchange of the 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 Corporation is published;

(iv) the occasional sale to the Corporation upto value not exceeding ten thousand rupees in one year, of any article in which he or the company regularly trades.

(2) The Government may remove from the Corporation any non-official member nominated by the Government, who is its opinion,-

(a) has been disqualified under sub-section (1);

(b) refused to act;

(c) has so abused his position as a member as to render his continuance on the Corporation detrimental to the interest of the public; or

(d) is otherwise unsuitable to continue as a member.

(3) No order of removal under sub-section (2) shall be made unless the non-official member has been given an opportunity to submit his explanation to the Government, and when such order is passed the office of the member so removed shall be deemed to be vacant.

(4) A member who has been so removed under sub-section (3) shall not be eligible for re-appointment as a member or in any other capacity on the Corporation.

7. Terms of office of member :-

(1) A person appointed as member under clauses (o), (p), (q) and (r) of sub-section (1) of section 4 shall hold the office for two years from the date of his appointment unless the term of office is determined earlier by the State Government, by notification in the Official Gazette:

Provided that, the members of the Maharashtra State Legislature shall cease to be the members of the Corporation if they cease to be the members of the Maharashtra State Legislature.

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

(3) The members may be eligible for re-appointment.

(4) 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.

8. Meetings of Corporation :-

(1) The Corporation shall meet at such times and places as the Chairman may decide and observe such rules of procedure in regard to transactions of business at the meetings (including the quorum thereof), as may be laid down by regulations:

Provided that, at least one meeting shall be held in every two calendar months in such a manner

so as to ensure that not more than sixty days intervene between the two meetings.

(2) The Chairman or, in absence of the Chairman, the Vice-chairman, shall preside over every meeting of the Corporation. If, for any reason, the Chairman and the Vice- Chairman are unable to attend any meeting, the meeting shall be presided over by the senior most member Minister, present in the meeting.

(3) All proceedings of the Corporation shall be authenticated by the Chairman and all orders and instruments of the Corporation shall be authenticated by the Managing Director or any other Officer of the Corporation as may be authorised in this behalf, by regulations.

9. Disqualification for participation in proceedings of Corporation or Committee on account of interest :-

(1) A member who is directly or indirectly concerned or interested in any contract, loan, arrangement or proposal entered into or proposed to be entered into, by or on behalf of the Corporation, shall at the earliest possible opportunity, disclose the nature of his interest to the Corporation, and shall not be present at any meeting of the Corporation when any such contract,, loan, arrangement or proposal is discussed, unless his presence is required by the other members for the purpose of eliciting information, but no member so required to be present shall vote on any such contract, loan, arrangement or proposal.

(2) If any member of the Corporation or of a Committee appointed by the Corporation 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 Corporation 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 Corporation or a Committee thereof from voting on, or taking part in, the discussion of any resolution or question relating to any subject other than the subject referred to in the said sub-sections:

Provided that, a member shall not be deemed to be concerned or interested as aforesaid by reason only of his being a share-holder of the company concerned in any such contract, loan, arrangement or proposal.

10. Constitution of Committees :-

The Corporation may, from time to time, constitute a committee or committees out of its members consisting of such number of them as it may think proper, and may delegate to such committee such powers of the Corporation as it may deem fit for carrying out the purposes of this Act.

11. Provision for inviting Officer of Government or local body, etc :-

(1) The Corporation or any of its Committees may invite any officer of the Central Government, State Government, local body or any Organisation of any persons to attend its meeting or meetings as a special invitee for the purpose of assisting or advising it on any matter or matters. The Officer so invited may take part in (he proceedings but, shall have no right to vote. Officer so invited shall be entitled to receive such honorarium or compensatory allowance for the purpose of meeting the personal expenditure in attending the meetings of the Corporation or its Committee as the Corporation may determine, from Time to Time.

12. Casual Vacancy :-

Any vacancy of member of the Corporation shall he filled as early as practicable, in like manner as if the appointment was being made for the first lime.

13. Act not to be invalidated by vacancy, infirmity, etc :-

No act done or proceedings taken under this Act by the Corporation or any Committee appointed by the Corporation shall be invalidated merely on the grounds of,-

(a) any vacancy of a member or any defect in the constitution or reconstitution of the Corporation or Committee thereof; or

(b) any defect or irregularity in the appointment as a member of the Corporation or of a

Committee thereof;

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

14. Officers and staff of Corporation :-

(a) The Corporation may with the prior approval of the State Government appoint such other Officers and staff as it considers necessary for the efficient performance of its duties and discharge of its functions;

(b) The conditions of appointment of the Officers and Servants may be laid down from time to time, by regulations;

(c) Subject to the superintendence of the Corporation, the Managing Director shall supervise and control all its Officers and employees including any Officers of Government appointed on deputation to the Corporation.

CHAPTER 3

VESTING OF PROPERTY, ASSETS AND LIABILITIES, AND OBLIGATIONS, AND TRANSFER OF EMPLOYEES

15. Vesting and transfer of property to Corporation.- :-

(1) From such date 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 comprising movables and immovables including irrigation projects or soil conservation works, social forestry works, works under construction and management of completed schemes, specified in that behalf, situated in the area of operation of the Corporation, which immediately before the appointed date vested in the State Government or local bodies and were under the control of the Water Conservation Department or local bodies, shall vest in and stand transferred to the Corporation, and all income derived and expenses incurred in that behalf be brought on books of the Corporation; and

(b) the rights, liabilities and obligations of the State Government or local bodies, whether arising out of any contract or otherwise pertaining to the said projects of the State Government or local bodies, shall be deemed to be the rights, liabilities and obligations of the Corporation.

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

(3) All suits and other legal proceedings with respect to any scheme for the development of irrigation projects, soil conservation works, social forestry works entrusted to the Corporation, instituted or defended by or against the State Government before the appointed date may be continued, or instituted, or defended by or against the Corporation.

16. Decision of disputed properties :-

Where any doubt or dispute arises as to whether any property or assets has vested in the Corporation under section 15 or any rights, liabilities or obligations have become the rights, liabilities or obligations of the Corporation under that section, such doubt or dispute shall be referred to the State Government, whose decision shall be final.

17. Deputation of Officers and employees :-

(1) Where on account of conferment of any powers, duties and functions on the Corporation by or under this Act, in the opinion of the State Government, any employee in the field or establishments, that is, Officers and employees belonging to technical staff as well as ministerial and non-ministerial staff (permanent, regular, temporary, converted regular permanent, temporary and daily wages) in the Water Conservation Department on the date specified by the State Government engaged in the fields of planning, investigation, design, construction, management, land development of the State sector, irrigation projects, soil conservation works, social forestry works, have been rendered surplus or are likely to be rendered surplus or are likely to be rendered surplus wholly or partially to the requirements of the State Government, or where the services of such officer and servants are required by the Corporation for efficient exercise of its powers, performance of its duties or discharge of its functions, the State

Government, the Head of Department of the State Government or any officer authorized by the State Government in this behalf may, from time to time, having regard to the necessity therefor, by order depute such officers or employees to the Corporation and the Corporation shall take them over and employ them on deputation, subject to the provisions of this section.

(2) The period of deputation of any such employee to the Corporation shall be five years except when any such person is required to be repatriated on the grounds, such as promotion, reversion, termination or superannuation or any other reason as may be directed by the State Government. After the expiry of the period of deputation, he shall stand repatriated to the service under the State Government.

(3) All the permanent and regular temporary permanent employee of the said establishment transferred on deputation to the Corporation, under sub-section (2) shall have a lien on their posts in the service under the State Government and the period of their service under the Corporation shall, on their repatriation to the service under the State Government, be counted for their increments, pensions and other matters relating to their service.

(4) The Corporation shall have the authority to transfer the Officer and staff members within the area of operation of the Corporation :

Provided that, except in the case of the officers of the rank of Executive Engineers and other officers in the scale of Executive Engineers and above, the orders of the transfers shall be effected only after the approval of State Government.

(5) No employee on deputation to the Corporation shall be entitled to any deputation allowance.

(6) The salaries and allowances of employees on deputation of the Corporation shall be paid from the Corporation Fund.

(7) Save as otherwise provided in this section, the terms and conditions of services of employees on deputation to the Corporation, shall not be less advantageous than those applicable to them immediately before deputation and shall not be varied to their disadvantage except with the previous sanction of the State Government.

CHAPTER 4

FUNCTIONS AND POWERS OF CORPORATION

18. Functions of Corporation.- The functions of the Corporation shall be as follows, namely:- :-

(a) to prepare, promote, execute, and finance the schemes for water conservation, irrigation, soil conservation, watershed management, social forestry and works of saline and alkaline land in conformity with the published policies of the State Government:

(b) to render all necessary services in regard to water conservation, irrigation, soil conservation, watershed management, social forestry and works of saline and alkaline land to the State Government, local bodies and on the request to provide services, on payment, to institutions or individuals also;

(c) to prepare draft state plans for water conservation, irrigation, soil conservation, watershed management, social forestry in conformity with the directions of the State Government;

(d) to review and advice on the taxes and fees, water rates etc., to be levied on the farmers benefited due to recharge of wells located in the watersheds which is developed under any watershed development scheme implemented in the areas of the Corporation and local bodies which have entered in to agreement with the Corporation;

(e) to assess the requirement of materials, and arrange for their procurement and utilization;

(f) to assess the requirement of manpower and training in relation to water conservation and all other related activities in the State;

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

- (h) to plan, investigate, design, construct and manage the water conservation projects in the watersheds;
- (i) to enter into contract in respect of the works in any other matters transferred to the Corporation along with assets and liabilities under this Act;
- (j) to invite tenders, bids, offers and enter into contracts for the purposes of activities of the Corporation;
- (k) to promote participation of any person or body or association of individuals, whether incorporated or not, in planning investigation, designing, construction and management of watershed development projects;
- (l) to undertake schemes or works, either jointly with other corporate bodies or institutions, with the Government or local bodies or on agency basis in furtherance of the purposes for which the Corporation is established and all matters connected therewith;
- (m) to promote irrigation related activities such as fisheries, pisciculture, floriculture, horticulture, sericulture, etc;
- (n) to prepare annual plan and five-year working development plan;
- (o) to prepare annual budget;
- (p) to under take any other activities including the works under Employment Guarantee Scheme entrusted by the State Government in furtherance of the objectives for which the Corporation is established.

19. General powers of Corporation :-

- (1) The Corporation shall have the powers to accord administrative approval revise administrative approval technical sanction, acceptance of all tenders sanctioning the budget and making financial provisions, settling disputes arising out of contracts and any other thing which may be necessary or expedient for the purposes of carrying out its functions under this Act.
- (2) Without prejudice to the generality of the forgoing provisions, such powers shall include the power-
 - (a) to inspect and issue directions for implementation of measures, as may be, in respect of all work of water conservation watershed management, social forestry, executed the Corporation, including those work which are under the control of local bodies;
 - (b) to obtain periodic or specific information from any local body and operating agency as the Corporation may deem necessary;
 - (c) to provide training for its own personnel as well as employees of local bodies;
 - (d) to lay down the schedule of fees and other charges of all kinds of services rendered by the Corporation to the State Government, local bodies, institutions or individuals;
 - (e) to acquire, to hold property both movable and immovable as the Corporation may deem necessary for the performance of any of its functions, duties, activities and to lease, sell, exchange or otherwise transfer any property held by it on such conditions as may be deemed proper by the Corporation;
 - (f) to stock its reservoir or water courses with fish, to sell fish or fishing rights and prohibit taking out fish from the water under its control;
 - (g) to assist in the establishment of water users' association and other organizations formed under the Maharashtra Co-operative Societies Act, 1960 (Mah. XXIV of 1961.) for the better use of facilities made available by the Corporation;
 - (h) to engage suitable consultant or person having special knowledge or skill to assist the Corporation in the performance of its functions;
 - (i) to do all such other things and perform such acts as may be necessary for, or incidental or

conductive to any matters which are necessary for the furtherance of the objectives for which Corporation has been established.

CHAPTER 5 ACQUISITION OF LAND

20. Acquisition of land :-

The State Government may for carrying out the purposes of this Act, compulsorily acquire land under the Land Acquisition Act, 1894 (1 of 1984.), and the acquisition of any land for any of the said purposes shall be deemed to be a public purpose within the meaning of that Act.

21. Transfer of Government lands to Corporation :-

(1) For the furtherance of the object of this Act, the State Government may by notification in the Official Gazette, upon such conditions as may be agreed upon between the Government and the Corporation, place at the disposal of the Corporation any land vested in the Government:

Provided that, the State Government shall not place at the disposal of the Corporation any lands which are notified and included in a reserved forest.

(2) After any such land has been so placed at the disposal of the Corporation it shall be dealt with by the Corporation in accordance with the provisions of this Act, and directions, if any, given by the State Government in this behalf,

(3) If any land placed at the disposal of the Corporation under sub-section (1) is not required by the Corporation, the State Government, may ask the Corporation to return it to the State Government upon such terms and conditions as may be mutually agreed upon.

22. Powers of Corporation to dispose of land :-

Subject to any rules made by the State Government under this Act, the Corporation may retain, lease, sell, exchange or otherwise dispose of any land, any building or property vested in it, in such manner as it thinks fit for carrying out the purposes of this Act.

CHAPTER 6 FINANCE, ACCOUNTS AND AUDIT

23. Application of Corporations Assets, etc :-

All the property, fund and other assets vesting in the Corporation shall be held and applied by it for the purposes of this Act.

24. Fund of Corporation :-

(1) The Corporation shall have and maintain its own Fund, to which shall be credited-

(a) at the money received by the Corporation from the State Government by way of grants, subventions, loans, advances and the loans raised under this Act;

(b) all money received by the Corporation from the disposal of lands, buildings and other properties moveable or immovable and other transactions;

(c) all money received by the Corporation by way of rents and profits or from any other source.

(2) The Corporation may keep current and deposit account with the State Bank of India or any other bank approved by the State Government in this behalf.

(3) Such accounts shall be operated by such officers of the Corporation as may be authorised by it in this behalf.

(4) Notwithstanding anything contained in sub-sections (2) and (3), the Corporation may keep on hand such sum as it thinks fit for its day to day transaction, subject to such limits and conditions, as may be prescribed.

25. Contribution of Government to Corporation Fund :-

(1) The State Government shall, by appropriation duly made in this behalf, from time to time, provide an aggregate sum of Rs. 2000 crore to the Corporation Fund as its share of capital required by the Corporation for the performance of the functions of the Corporation under this

Act and such contribution shall be paid in suitable installments spread over a period of five years from the date of establishment of the Corporation:

Provided that, the State Government shall, by appropriation duly made in this behalf, initially contribute and pay a sum of Rs. 500 crore to the Corporation Fund :

Provided further that, the contribution made by the Government shall be exclusive of the expenditure incurred by the Government for and in connection with, establishment of the Corporation.

(2) The capital provided by the State Government shall not carry any interest.

26. Grants, subventions, loans and advances to Corporation :-

The State Government may, after due appropriation made by the State legislature by law in this behalf, make such grants, subventions, loans and advances to the Corporation as it may deem necessary for the performance of the functions of the Corporation under this Act; and all grants, subventions, loans and advances made shall be on such terms and conditions as the State Government may determine.

27. Powers of Corporation to borrow :-

(1) The Corporation may, subject to such conditions, as may be prescribed in this behalf, borrow money from the financial institutions or Non-Resident Indians or from the open market by issue of guaranteed or unguaranteed bonds, debentures, stocks or term deposits, bill discounting or otherwise, for the purpose of providing itself with adequate resources.

(2) The maximum amount which the Corporation may, at any time, have on loan under sub-section (1) shall not exceed rupees one thousand crore, unless the State Government fixes a higher maximum limit for this purpose.

28. Acceptance of deposits by Corporation :-

The Corporation may accept deposits on such conditions as may be deemed fit from the persons, authorities or institutions, to whom allotment or sale of land or buildings or fishing rights is made or is likely to be made in furtherance of the objects of this Act.

29. Powers to spend :-

(1) The Corporation shall have the authority to spend such sums as it thinks fit for the purposes authorised under this Act from and out of the Fund of Corporation referred to in section 24 or from the Reserve and other Funds referred to in section 30 , as the case may be.

(2) It shall be competent for the Corporation to spend such sums as it thinks fit also on objects authorised under this Act other than the water conservation projects and such sums shall be treated as common expenditure payable out of the Fund of the Corporation.

30. Reserve and other Funds :-

(1) The Corporation shall make provisions for such Reserve and other specially denominated Funds as the State Government may, from time to time, direct.

(2) The management of the funds referred to in sub-section (1), the sums to be transferred, from time to time, to the credit thereof and the application of money comprised therein shall, subject to the directions, if any, issued by the State Government in this behalf, be determined by the Corporation.

31. Submission of budget of Corporation :-

(1) The Managing Director of the Corporation shall at a special meeting to be held in the month of October in each year, lay before the Corporation, the budget estimates of the Corporation for the next year.

(2) Every such budget estimates shall be prepared in such a form as the State Government may, from time to time, by order, determine and shall provide for-

(i) the proposals, plans and projects which the Corporation proposes to execute either in part or

in whole during the next year;

(ii) the due fulfillment of all the liabilities of the Corporation; and

(iii) the implementation of the provisions of this Act; and such estimates shall contain a Statement showing the estimated income and expenditure on capital and revenue accounts for the next year and such other particulars, indicating the financial performance of the Corporation, as the State Government may direct. The budget shall clearly reveal the financial outlay and performance.

32. Sanction of Budget Estimates :-

The Corporation shall consider the budget estimates submitted to it under section 31 and approve the same with or without modifications on or before such date as the State Government may, from time to time, determine.

33. Government as guarantor :-

The State Government may guarantee the repayment of any loans or debentures and payment of interest on all or any of the loans or debentures given or transferred to the Corporation.

34. Disposal of profits and deficits :-

(1) Subject to the provisions of sub-section (2) of section 36 of this Act, the net profit, if any, attributable to each of the objects shall be fully credited to the Corporation.

(2) The net deficit, if any, in respect of the objects shall be solely borne by the State Government.

35. Interest charges and other expenses to be added to and receipts taken for reduction of capital cost :-

(1) The interest charges and all other expenditure shall be added to the capital cost and all receipts shall be taken in reduction of such capital cost, if the Corporation is in deficit.

36. Depreciation Fund :-

(1) The Corporation may make provision for Depreciation Fund at such rate and on such terms as may be specified by the Comptroller and Auditor General of India, in consultation with the State Government.

(2) The net profit for the purpose of section 34 shall be determined after such provision has been made.

37. Apportionment of betterment charges levied by State Government :-

In the event of any betterment charges being imposed by the State Government, the proceeds thereof in so far as they are attributable to the operations of the Corporation, shall be credited to the Corporation.

38. Financial Statement and programme of Work :-

(1) The Corporation shall, by such date in each financial year as may be prescribed, prepare and submit to the State Government for approval an Annual Financial Statement and the programme of work for the succeeding financial year and the State Government may, approve such financial statement and the programme of work of the Corporation as submitted by the Corporation or with such variations as the State Government thinks fit.

(2) The annual financial statement shall show the estimated receipts and expenditure during the succeeding financial year in such form and details as may be prescribed.

(3) The Corporation shall be competent to make variations in the approved programme of work in the course of the financial year:

Provided that, all such variations and reappropriations out of the sanctioned budget are brought to the notice of the State Government by a supplementary financial statement.

(4) A copy each, of the annual financial statement and the programme of work and the supplementary financial statement, if any, shall be placed before each House of the State

Legislature, as soon as may be, after their receipt by the State Government.

39. Accounts and Audit :-

(1) The Corporation shall maintain books of account and other books in relation to the business and transactions in such form, and in such manner, as may be prescribed.

(2) The accounts of the Corporation shall be audited by an auditor appointed by the State Government, in consultation with the Comptroller and Auditor General of India.

(3) Within nine months from the end of the financial year, the Corporation shall send the copy of the accounts audited together with the copy of the report of the auditor thereon the State Government.

(4) The State Government shall cause the accounts of the Corporation together with the audit report thereon forwarded to it under sub-section (3) to be laid before each House of the State Legislature, as far as possible before the expiry of the year next succeeding the year to which the accounts and the report relate.

40. Concurrent and special audit of accounts :-

(1) Notwithstanding anything contained in the last preceding section, the State Government may order that there shall be concurrent audit of the accounts of the Corporation by such person as it thinks fit. The State Government may also direct a special audit to be made by such person as it thinks fit of the accounts of the Corporation relating to any particular transaction or class or series of transactions or to a particular period.

(2) When an order is made under sub-section (1), the Corporation shall present or cause to be presented for audit all such accounts and shall furnish to the person appointed under sub-section (1) such information as the said person may require for the purpose of audit.

CHAPTER 7

MICELLANEOUS AND SUPPLEMENTARY PROVISIONS

41. Furnishing of annual reports and returns, etc :-

(1) The Corporation shall prepare and submit to the State Government, in such form as may be prescribed, an annual report within six months after the end of every financial year of its activities during the previous financial year, with particular reference to,-

- (a) irrigation and command area development;
- (b) soil conservation and water conversation
- (c) watershed development and management;
- (d) social forestry;
- (e) water supply;
- (f) recreation facilities;
- (g) use of lands;
- (h) works of saline and alkaline land; and
- (i) other activities of the Corporation.

(2) The Corporation shall also furnish to the State Government such returns, statistics, reports, accounts and other information with respect to its conduct of affairs, properties or activities or in regard to any proposed work or scheme as the State Government may, from time to time, require.

42. Execution of contract, etc :-

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

43. General penalty :-

Whoever contravenes the provisions of this Act or any rule or regulation made thereunder or fails to comply with any notice, order or requisition issued under this Act shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

44. Power of entry :-

Any officer or servant of the Corporation generally or specifically authorised by the Corporation may, at all reasonable time, enter upon any land or premises and do such things as may be necessary for the purpose of lawfully carrying out any of its work or of making any survey, examination or investigation, preliminary or incidental to the exercise of powers or the performance of functions by the Corporation under this Act.

45. Dues to be recovered as an arrear of land revenue :-

All sums due or payable by any person to the Corporation or recoverable by it on account of any charge, costs, expenses, fees, rent, compensation or on any other accounts under this Act or any rule or regulation made thereunder or any agreement made with the Corporation and all charges or expenses incurred in connection therewith shall, without prejudice to any other mode of recovery, be recoverable as an arrear of land revenue.

46. Service of notice, etc :-

(1) All notices, orders and other documents required by this Act or any rule or regulations made thereunder to be served upon any person shall, save as otherwise provided in this Act or such rule or regulation, be deemed to be duly served-

(a) where a person to be served is a company, the service is effected in accordance with, the provisions of Section 51 of the Companies Act, 1956 (1 of 1956);

(b) where the person to be served is a firm, if the document is addressed to the firm at its principal place of business, identifying it by the name and style under which its business is carried on, and is either, -

(i) sent under a certificate of posting or by registered post; or

(ii) left at the said place of business;

(c) where the person to be served is a statutory public body or a corporation or a society or other body, if the document is addressed to the Secretary, Treasurer or other head officer of the body, corporation or society at its principal office, and is either-

(i) sent under a certificate of posting or by registered post; or

(ii) left at that office;

(d) in any other case, if the document is addressed to the person to be served and-

(i) is given or tendered to him; or

(ii) if such person cannot be found, is affixed on some conspicuous part of his last known place of residence or business or is given or tendered to some adult member of his family or is affixed on some conspicuous part of the land or building to which it relates; or

(iii) is sent under a certificate of posting or by registered post to that person.

(2) Any document which is required or authorised to be served on the owner or occupier of any land or building may be addressed "the owner" or "the occupier", as the case may be, of that land or building (naming that land or building), name or description, and shall be deemed to be duly served,-

(a) if the document so addressed is sent or delivered in accordance with clause (d) of sub-section (1); or

(b) if the document so addressed or a copy thereof so addressed is given or tendered to some person on the land or building or, where there is no person on the land or building to whom it can be delivered, is affixed to some conspicuous part of the land or building.

(3) Where a document is served on the firm in accordance with this section, the document shall be deemed to be served on each partner.

(4) For the purpose of enabling any document to be served on the owner of any property, the occupier (if any) of property may be required by notice in writing by the State Government or the Corporation, as the case may be, to state the name and address of the owner thereof.

47. Public notice to be made known :-

Every public notice given under this Act or any rule or regulation made thereunder shall be in writing and under the signature of the officer concerned; and shall be widely made known in the locality or in the farms or estates to be affected thereby, by affixing copies thereof in conspicuous public places, within the said locality or the said farms or estates or by publishing the same by beat of drum or by any other means that the officer may think fit.

48. Default in performance of duty :-

(1) If the State Government is of the opinion that the Corporation has made a default in the performance of any duty or obligation imposed or cast on it by order under this Act, the State Government may fix a period for the performance of that duty or obligation and give notice to the Corporation accordingly.

(2) If the Corporation fails or neglects to perform such duty or obligation within the period so fixed for its performance, it shall be lawful for the State Government, to supersede and reconstitute the Corporation as it deems fit.

(3) After the supersession of the Corporation and until it is reconstituted, in the manner laid down in Chapter II, the powers, duties and functions of the Corporation under this Act shall be carried on by the State Government or by such officer or officers or body of officers as the State Government may appoint for this purpose, from time to time.

(4) All property vested in the Corporation shall, during the period such supersession, vest in the State Government.

49. 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 in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that, nothing contained in this 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 had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved 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 officer bearer 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 a body corporate and includes a firm, an association of persons or body of individuals whether incorporated or not, and

(b) "director", in relation to a firm, means a partner in the firm, and in relation to any association of persons or body of individuals, means any member controlling the affairs thereof.

50. Authority for prosecution :-

Unless otherwise expressly provided, no Court shall take cognizance of any offence relating to property belonging to, or vested by or under this Act in the Corporation, punishable under this Act except on the complaint of, or upon information received from the Corporation or some person authorized by the Corporation by general or special order in this behalf.

51. Compounding of offences by Corporation :-

(1) The Corporation or any person authorized by the Corporation by general or special order in this behalf may, either before or after the institution of the proceedings, compound any offence made punishable by or under this Act

(2) Where an offence has been compounded, the offender if in custody shall be discharged and no further proceedings shall be taken against him in respect of the offence compounded.

52. Penalty for obstruction :-

Any person who obstructs the entry of a person authorized under section 44 to enter into or upon any land or building or molests such person after such entry or who obstructs the lawful exercise by him of any powers conferred by or under this Act shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

53. Delegation of powers of Corporation :-

The Corporation may, with the previous approval of the State Government, delegate any of its powers under this Act to any officer of the State Government or to any of its officers and to permit them to re-delegate specific powers to their subordinates, by general or special order in this behalf.

54. Protection of action taken in good faith :-

No suit, prosecution or other legal proceedings shall be against any person for anything which is in good faith done or intended to be done under this Act or rules or regulations made thereunder.

55. Chairman Executive Director, members and officers, etc. to be public servants :-

The Chairman, Managing Director and Officers and servants on deputation or of the Corporation, as the case may be, shall, while acting or purporting to act in pursuance of any of the provisions of this Act or rules or regulations made thereunder, be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860 .

56. Effect of provisions inconsistent with other laws :-

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law.

57. Power to make rules :-

(1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

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

(3) Every rule made under this Act shall be laid, as soon as may be, after it is made, before each House of the State Legislature, while it is in session for a total period of thirty days, which may be comprised in one session or in two successive sessions, and if, before expiry of the session in which it is so laid or the session immediately following, both the Houses agree in making any modification in the rule or both the House agree that the rule should not be made, and notify their decision to that effect in the Official Gazette, the rule shall, from the date of publication of such decision in the Official Gazette, have effect only in such modified form or be of no effect, as the case may be, so however that, any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

58. Power to make regulations :-

The Corporation may, with the previous approval of the State Government, make regulations consistent with this Act and the rules made thereunder for all or any of the matters to be provided under this Act by regulations and generally for all other matters for which provision is, in the opinion of the Corporation, necessary for the exercise of its powers and the discharge of its functions under this Act.

59. Power to remove doubts and difficulties :-

If any doubt or difficulty arises in giving effect to the provisions of this Act the State

Government may, by order, make provision or give such direction, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the removal of the doubt or difficulty:

Provided that, no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

60. Dissolution of Corporation :-

(1) Where the State Government is satisfied that the purposes for which the Corporation was established under this Act have been substantially achieved so as to render the continued existence of the Corporation, in the opinion of the State Government, unnecessary, the Government may, by notification in the Official Gazette, declare that the Corporation shall be dissolved with effect from such date as may be specified in the notification, and the Corporation shall be deemed to be dissolved accordingly and upon such dissolution the members (including the Chairman) shall vacate their respective offices.

(2) From the said date-

(a) all properties, funds and dues which are vested in, or realisable by, the Corporation shall vest in, or be realisable by, the State Government;

(b) all liabilities which are enforceable against the Corporation shall be enforceable against the State Government.

61. Repeal of Mah. Ord. XIII of 2000 and saving :-

(1) The Maharashtra Water Conservation Corporation Ordinance, 2000 (Mah. Ord. XIII of 2000.) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification issued or nomination, appointment or rule made) under the said Ordinance, shall be deemed to have been done, taken or issued, as the case may be, under the corresponding provisions of this Act.