

THE NATIONAL WATER COMMISSION ACT

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SCHEDULES

THE NATIONAL WATER COMMISSION ACT

[22nd August, 1963.]

Acts
 10 of 1963,
 32 of 1965,
 32 of 1973,
 26 of 1980,
 32 of 1988,
 36 of 1995
 3rd Sch.,
 28 of 2003
 S. 2,
 2 of 2004.

1. This Act may be cited as the National Water Commission Act. Short title.

2. In this Act— Interpre-

“Commission” means the National Water Commission established under section 3; tation.

“Chairman” means the Chairman of the Commission and includes any person for the time being performing the functions of the Chairman;

“financial year” means such period of twelve months as the Commission with the approval of the Minister may determine to be its financial year, so, however, that the first financial year shall be the period commencing with the commencement of this Act and ending with such day as may be fixed by the Commission with the approval of the Minister;

“functions” includes duties and powers;

“immovable property” includes—

- (a) land;
- (b) buildings and other erections, structures or fixtures affixed to any land or to any building or other erection or structure;
- (c) streams, springs, wells, water and water rights whether held together with, or independently of, any land;
- (d) privileges, liberties, easements and any other rights and advantages whatsoever appertaining or reputed to appertain to any land or to any

building or other erection or structure;

(e) an undivided share in any property hereinbefore set out;

“perform” includes exercise;

“property” includes movable and immovable property;

26/1980
S. 3.

“sewage” means the wastes of animal life other than stable manure, the drainings of stables, water discharged from sinks, basins, baths, and all other water that has been used for domestic purposes or in any industrial processes, and all waste water;

26/1980
S. 3.

“sewer” means any culvert, drain or pipe, intended or used for the conveyance of sewage;

26/1980
S. 3.

“sewerage” means the system of sewers and their accessories by which sewage is intended to be collected, conveyed and treated and includes all sewerage which may hereafter be constructed under any of the powers contained in this Act or any other enactment;

“water supply services” includes sewerage systems;

“water works” includes streams, springs, wells, pumps, reservoirs, cisterns, tanks, catchments, aqueducts, sluices, mains, pipes, valves, culverts, engines and all machinery, buildings and things for supplying, or used for or in connection with supplying water, or used for protecting sources of water supply;

26/1980
S. 3.

“works” means the water works and sewerage.

Establishment
and incorpo-
ration of
National
Water
Commission.
26/1980
S. 2.

3.—(1) There is hereby established a body to be called the National Water Commission which shall be a body corporate with perpetual succession and a common seal and with power to acquire, hold and dispose of property, to enter into contracts, to sue and be sued in its said name and to do all things necessary for the purposes of this Act:

Provided that, during the subsistence of a guarantee given under section 9, the Commission shall not alienate, mortgage, charge or demise any of its immovable property without the approval of the Minister responsible for finance.

(2) The provisions of the First Schedule shall have effect as to the constitution, operations and expenses of the Commission and otherwise in relation thereto.

First
Schedule.
26/1980
S.4

(3) The seal of the Commission shall be authenticated in the manner prescribed in the Schedule and shall be judicially and officially noticed.

4.—(1) Subject to the provisions of this Act it shall be the function of the Commission to—

Functions
of the
Commis-
sion.

- (a) prepare and submit to the Minister from time to time proposals for the establishment of an efficient, co-ordinated and economical water supply system capable of meeting the needs for water throughout the Island;
- (b) prepare and submit for the approval of the Minister details of schemes for the development of water resources and the supply of water in particular areas, and to carry out such schemes when they are approved;
- (c) keep under constant review the quality, reliability and availability of water supply services as a whole and the rates charged for such services and advise the Minister on these and any other matters relating to water supplies in the Island which may be referred to the Commission by the Minister;
- (d) within the limits of its resources provide and improve water supply services throughout the Island:

(e) maintain and operate water supply services provided by the Commission.

(2) For the purposes of subsection (1) the Commission may—

- (a) purchase water in bulk and sell water either in bulk or to individual consumers;
- (b) acquire any property which the Commission considers necessary or expedient for the purpose of performing its functions under this Act;
- (c) acquire the water works of any Parish Council upon such terms and conditions as may be agreed with the Parish Council subject to the approval of the Minister or in default of agreement determined by the Minister;
- (d) provide for its employees such assistance and facilities as may be necessary for training, education, and research;
- (e) with the approval of the appropriate road authority, add to or alter, as it considers necessary any road, street or lane adjoining or near to land acquired for the purpose of any water supply service;
- (f) with the approval of the Minister, acquire land for the purpose of adding to or altering any road, street or lane adjoining or near to land acquired for the purpose of any water supply service;
- (g) subject to such notice to the appropriate road authority and to such conditions as may be prescribed, open or break up any road, street or lane for the purpose of laying down, extending, inspecting, altering, renewing or repairing any water works or sewerage system;
- (h) carry on all such activities as may appear to it necessary or expedient for or in connection with the performance of its functions:

Provided that no contract, other than a contract of service, between the Commission and any person for his construction or extension of water works, or a sewerage system, or any works in connection therewith, for the Commission shall be entered into without the approval of the Minister, except where the consideration to be paid for such person's performance of the contract is less than an amount prescribed by the Minister by notice published in the *Gazette*.

32/1965
S. 2.

5.—(1) The Commission or its agents or servants duly authorized in that behalf by the Commission may at any time between the hours of eight o'clock in the morning and six o'clock at night, enter any premises supplied with water by the Commission for the purpose of examining the pipes or means by which such water is supplied to such premises or any appliance or thing used on such premises in connection with such pipes or means of supply or for the purpose of locking off the supply of water from such premises or of restoring the supply of water to such premises.

Entry on
premises.

(2) Any person who assaults or obstructs a person acting in the performance of his functions under subsection (1) shall be guilty of an offence and liable on summary conviction before a Resident Magistrate to a fine not exceeding five hundred thousand dollars or to imprisonment with or without hard labour for a term not exceeding twelve months.

2/2004
S. 2.

6.—(1) Any land (including land with buildings thereon) which the Commission proposes to acquire for the purpose of performing its functions under this Act may, subject to subsection (2) be acquired in accordance with the provisions of the Land Acquisition Act and in relation to such acquisition the purpose aforesaid shall be deemed to be a public purpose.

Acquisition
of land.

(2) For the purpose of the acquisition of any land as aforesaid the Land Acquisition Act shall have effect subject to the following modifications—

- (a) for the references in that Act to “the Commissioner” there shall be substituted a reference to “the Commission” (as defined in this Act);
- (b) in paragraph (b) of subsection (2) of section 5 of that Act there shall be inserted immediately before the word “Water” the word “National”;
- (c) for the reference in subsection (1) of section 16 of that Act to “the Commissioner of Lands in trust for Her Majesty” there shall be substituted a reference to “the Commission” (as defined in this Act).

26/1980
S. 6.

Power to
borrow.

7. For the purpose of enabling the Commission to perform its functions under this Act, the Commission may, with the consent of the Minister, borrow money in such manner and subject to such conditions as he may think fit to impose.

Power to
issue
securities.

8.—(1) The Commission may, for the purpose of raising money which it is authorized to borrow under this Act, issue stock, debentures or other securities (hereafter in this Act referred to as “securities).

(2) Such securities and interest and charges thereon may subject to the approval of the Minister responsible for finance be charged on the property of the Commission or on such part thereof as may be specified in the security.

(3) Subject to the provisions of this Act, any securities created by the Commission under the powers of this Act shall be issued, transferred, dealt with and redeemed according to regulations made by the Minister.

Power of
Minister to
guarantee
loans to
Commission.

9.—(1) With the approval of the House of Representatives signified by resolution, the Minister responsible for finance may guarantee, in such manner and on such conditions as he may think fit, the repayment of the principal and the payment of interest and charges on any authorized borrowings of the Commission.

(2) Where the Minister responsible for finance is satisfied that there has been default in the repayment of any principal moneys guaranteed under the provisions of this section or in the payment of interest or charges so guaranteed he shall direct the repayment or, as the case may be, the payment, out of the Consolidated Fund of the amount in respect of which there has been such default and any such repayment or payment shall be a charge on the Consolidated Fund.

(3) The Commission shall make to the Accountant-General, at such times and in such manner as the Minister responsible for finance may direct, payments of such amounts as may be so directed in or towards repayment of any sums issued in fulfillment of any guarantee under this section, and payments of interest on what is outstanding for the time being in respect of any sums so issued at such rate as that Minister may direct, and different rates of interest may be directed as respects different sums and as respects interest for different periods.

10. All moneys of the Commission not immediately required to be expended in the meeting of any obligations or the performance of any functions of the Commission may be invested in such securities as may be approved either generally or specifically by the Minister responsible for finance and the Commission may, with the approval of that Minister, sell all or any of such securities.

Power to invest moneys.

11.—(1) All rates and charges imposed by the Commission for water sold by the Commission in bulk or direct to consumers, and for services rendered by the Commission, shall be so fixed that, taking one year with another, the revenue derived in any year by the Commission from such sales and services, together with its revenue (if any) in such year from other sources, will be sufficient and only

Water rates and charges.

sufficient, as nearly as might be, to pay all remunerations, allowances, salaries, gratuities, working expenses and other outgoings of the Commission properly chargeable to income in that year including the payments falling to be made in such year by the Commission in respect of the interest on, or repayment of, the principal of any money borrowed by the Commission and provision for the redemption of securities issued by the Commission under this Act, and such sums as the Commission may think proper to set aside in that year for reserve fund, expansions, extensions, renewals, depreciation, loans and other like purposes.

(2) The rates and charges under this section may, if the Commission thinks fit, be fixed on different scales for different localities.

(3) Where the rates, charges and fees prescribed pursuant to section 19 are inapplicable nothing in this section shall prevent the Commission from charging by special agreement other rates, charges or fees.

(4) It shall be lawful for the Commission to meet payments of interest falling due in any year from money borrowed, whilst the expenditure out of such moneys remains unremunerative, for such period and subject to such conditions as the Minister may determine.

12.—(1) Where the Commission constructs, extends, or operates, any sewerage system the Commission may—

- (a) by a written notice served on the owner or occupier of any premises within the area where such sewerage system is available, require him, within such reasonable period as the Commission may determine, being not less than the prescribed period, to have his

Sewerage
connec-
tions.
32/1973
S. 2.
2/2004
S. 3(a).

premises connected to such sewerage system by such means and in accordance with such specifications as the Commission may approve; and

(b) impose, with the approval of the Minister, a sewerage rate upon all premises—

(i) within such area; and

(ii) in such other adjoining areas as may be prescribed.

(2) Where an owner or occupier fails to comply with a notice served under subsection (1)(a), the Commission (whether or not a penalty is imposed for the failure to comply with the notice) may cause the premises to be connected to the sewerage system, and the expenses incurred thereby shall be repaid to the Commission by such owner or occupier. 2/2004
S. 3(b).

(3) Where expense is incurred by an occupier of premises in complying with a notice served under subsection (1)(a) in relation to the premises, such expense shall be repaid to the occupier by the owner of the premises, and the occupier may deduct the amount of such expense out of the rent from time to time becoming due to such owner. 2/2004
S. 3(b).

(4) If an owner who is liable under this section or by any agreement with the Commission, for the repayment of expenses incurred by the Commission, fails to repay such expenses within the date specified in a written demand for repayment served upon him by the Commission, 2/2004
S. 3(b).

the Commission may, without prejudice to any other remedy, recover together with such expenses, interest, at such rate per annum as shall be prescribed, from the date specified in the demand until the date on which repayment is made.

2/2004
S. 3(b).

(5) The expenses and interest referred to in subsection (4) may be recovered—

- (a) from any person who is the owner of the premises when the works are completed and, until repayment is made, the sums payable shall be a charge on the premises in respect of which they are incurred, in priority to all other mortgages and charges thereon; or
- (b) from the occupier of the premises and, in default of payment thereof, the Commission may levy such sums together with costs relating thereto, by distress and sale of the goods and chattels of the occupier:

Provided that the occupier shall be entitled to deduct from the rent payable by him to his landlord so much as is recovered from the occupier in respect of any sums charged under this subsection.

2/2004
S. 3(b).

(6) In respect of any expenses repayable under subsection (1), the Commission may, if it thinks fit, at the request of an owner of premises, allow for the repayment thereof in instalments, together with interest thereon at such rate per annum as shall be prescribed, over a period not exceeding twenty years, and until repayment is made the sums owing shall, subject to any charge for property tax due to the Consolidated Fund, be a charge on the premises in respect of which they are incurred in priority to all other mortgages and charges on the premises.

2/2004
S. 3(b).

(7) The Commission may, either before or after calling upon the owner or occupier of any premises to execute any

work of any kind, agree with such owner or occupier to supply materials for and execute the work, and all expenses incurred by the Commission pursuant to the agreement, together with interest thereon at such rate per annum as shall be prescribed, shall be recoverable in any of the methods provided by this section.

13.—(1) The Commission shall on or before such date and in such form as may be required by the Minister, in each year prepare and submit to the Minister for approval Estimates of the income receivable and expenditure to be incurred during the forthcoming financial year. Estimates.

(2) All new posts, and any proposed variation in the salary of an existing post, shall be subject to the specific approval of the Minister:

Provided that nothing in this subsection shall apply to any post in respect of which the minimum salary or wage does not exceed such amount as may be specified by the Minister.

(3) No further sum shall be expended during any financial year other than is provided in the Estimates relating to such financial year, unless such sum has been—

- (a) included in a Supplemental Estimate of Expenditure which has received the approval of the Minister; or
- (b) approved generally in relation to a scheme approved by the Minister, prior to such expenditure:

32/1965
S. 3(a).

Provided that expenditure in contravention of this subsection may be subsequently approved by the Minister upon the application of the Commission if such expenditure appears to him to have been necessarily incurred, and thereafter, without

prejudice to any right or liability enforced prior to such approval, such expenditure shall not be deemed to have been incurred contrary to any provisions of this Act, or without due authority, or otherwise illegally or improperly, by reason that the sum so expended was not provided or included in any Estimate or Estimates or approved by the Minister prior to its expenditure.

(4) The Commission may, subject to such conditions as may be imposed by the Minister apply savings effected or to be effected on any head of its Estimates or a surplus of actual over estimated receipts to meet deficiencies on any head, so, however, that the total expenditure shall not exceed that approved by the Minister in such Estimates:

32/1965
S. 3(b).

Provided that any expenditure incurred which would have been in accordance with this subsection but for any such condition may be subsequently approved by the Minister upon the application of the Commission if such expenditure appears to him to have been necessarily incurred, and thereafter, without prejudice to any right or liability enforced prior to such approval, the observance of such condition shall be deemed not to have been required in relation to such expenditure.

Accounts
and audit.

14.—(1) The Commission shall keep proper accounts and other records in relation to the business of the Commission and shall prepare annually a statement of accounts in a form satisfactory to the Minister, being a form which shall conform with the best commercial standards.

(2) The accounts and records shall be kept in such a manner as to secure the provisions of separate information as respects the supply of water, and each of any other main activities or undertaking of the Commission, and to show as far as may be, the financial and operating results of each such activity or undertaking.

(3) The accounts of the Commission shall be audited by an auditor or auditors appointed annually by the Commission and approved by the Minister.

(4) Within four months after the end of each financial year or within such further time as may in special circumstances be allowed by the Minister, the Commission shall send the statement of its accounts referred to in subsection (1) to the Minister, together with a copy of any report made by the auditor on that statement or on the accounts of the Commission.

(5) The auditor's fees and any expenses of the audit shall be paid by the Commission.

(6) The Auditor-General shall be entitled, on the direction of the Minister, at all reasonable times to examine the accounts and other records in relation to the business of the Commission.

15.—(1) In the event of the expenditure of any funds of the Commission contrary to the provisions of this Act or without due authority, the amount thereof shall be recoverable from any person or persons appointed or employed to or by the Commission and incurring or purporting to authorize such expenditure, and any such persons shall be jointly and severally liable in that behalf.

Liability
for improper
expenditure.
32/1965
S. 4.
26/1980
S. 6.

(2) Any liability under this section may be enforced by action of debt at the suit of a public officer designated by the Minister for the purpose, and any moneys recovered in any such action shall be carried to the credit of such of the Commission's accounts as the Minister shall direct.

16. [*Deleted by Act 28 of 2003, S. 2.*]

Annual
report.

17.—(1) The Commission shall, within five months after the end of each financial year or within such further time as may in special circumstances be allowed by the Minister, cause to be made and transmit to the Minister a report dealing generally with the activities of the Commission during that financial year, and containing such information relating to the proceedings and policy of the Commission as can be made public without detriment to the interests of the Commission.

(2) The Minister shall cause a copy of the report together with the annual statement of accounts and the auditor's report thereon and on the accounts to be laid on the Table of the House of Representatives and the Senate.

(3) Copies of the Commission's report together with the annual statement of accounts and the auditor's report on that statement and on the accounts of the Commission shall be published in such manner as the Minister may direct and shall be made available to the public by the Commission at a reasonable price.

Power of
Minister to
give policy
directions.

18.—(1) The Minister may, after consultation with the Chairman, give to the Commission such directions of a general character as to the policy to be followed by the Commission in the performance of its functions as appear to the Minister to be necessary in the interests of the Island and the Commission shall give effect to such directions.

(2) The Commission shall furnish the Minister with such returns, accounts and other information as he may require with respect to the property and activities of the

Commission, and shall afford to him facilities for verifying such information in such manner and at such times as he may reasonably require.

19.—(1) The Commission may, with the approval of the Minister, make regulations for the better carrying of this Act into effect and, without prejudice to the generality of the powers hereby conferred, may make regulations—

Power to
make regu-
lations.
26/1980
S. 8(a).

(a) prescribing—

(i) [*Deleted by Act 2/2004.*]

(ii) the areas in which such rates and charges are to be imposed; and

(iii) the fees payable in respect of any other services properly rendered on account of consumers;

(b) prescribing the forms of applications for the provision of water supply services to consumers, the manner of effecting such supply and the incidence of the charges or fees in respect of the cost of connecting the consumer's premises with the mains;

2/2004
S. 4(b).

(c) prescribing the security to be furnished by consumers and the conditions for the discontinuance of the supply in cases where the consumer fails to observe the requirements of this Act or of any regulations made thereunder, or is in arrears with his payments of any proper rates, charges or fees, or where such discontinuance may be considered necessary or advisable;

(d) providing for the recovery of rates, charges and fees payable by consumers;

(e) prescribing offences in relation to the use, misuse or fraudulent use of water supplied by the Commission,

or to interference with any water works or sewerage system belonging to the Commission and the penalties for such offences;

(f) prescribing anything required by this Act to be prescribed.

26/1980
S. 8(b).

(2) Every regulation which prescribes, alters, amends or modifies any rates or charges shall be published in the *Gazette* not less than seven days before the coming into force thereof.

Modifica-
tion of
water rates
under
Parishes
Water Sup-
ply Act.

20.—(1) Where the Commission supplies water within the limits of a water supply district as defined by section 5 of the Parishes Water Supply Act, the Minister may by order provide that any water rates payable under that Act as respects such district may be remitted to such extent and in such circumstances and subject to such conditions as may be specified in the order.

(2) Any order made under subsection (1) shall be subject to negative resolution of the House of Representatives.

Rates
charged
upon pro-
perty and
distress for
non-pay-
ment.
26/1980
S. 9.

21.—(1) All rates and all other moneys payable under the provisions of this Act or any other enactment for the time being in force in relation to water supply services or under any contract for the supply of water or materials or for repairs, and interest thereon at the rate and in the circumstances fixed by the Minister pursuant to subsection (4), shall, in addition to any other remedy by the Commission, be a first charge upon the premises in respect of which such rates and moneys are due and payable, until payment or recovery of such rates, moneys and interest, and in priority to any other charge, encumbrance or lien, save and except any other charge or lien created on the premises by any other enactment in favour of the Crown.

(2) Subject to subsection (4) the Commission may, in default of payment of any such rate, money or interest, recover the same, and the costs of such recovery, by distress and sale of the goods and chattels of the persons making such default wherever found and on any goods and chattels found on the said premises.

(3) In addition to any other remedies conferred on the Commission by this or any enactment the Commission may take proceedings for the recovery of any rates and other moneys payable to the Commission, or for the enforcement of any charge, or for the sale of the premises charged, by action or suit brought in a Resident Magistrate's Court where the sum sued for, or the amount of the charge sought to be enforced, shall not exceed two hundred and fifty thousand dollars.

2/2004
S. 5.

- (4) The Minister may by order prescribe—
- (a) a rate of interest which shall be paid, and the circumstances and conditions on which it shall be paid, on amounts due to the Commission;
 - (b) goods and chattels which shall be excluded from any distress pursuant to subsection (2).

(5) An order under subsection (4) shall be subject to negative approval.

22.—(1) Any lands vested in the Commissioner of Lands or in the Commission under this Act and any lands acquired for the purpose of water works which shall cease to be needed or used for the purpose of this Act or of any other enactment relating to the works may with the sanction of the Minister be sold by the Commission and shall be conveyed by the Commissioner of Lands, or the Commission, as the case may be, to such persons in such manner as the purchaser may direct.

Power
to sell.
26/1980
S. 9.

(2) Any lands conveyed pursuant to subsection (1) shall be thereupon discharged from any trust created by this Act or by any other enactment relating to the works

and the purchase money shall be paid into the Bank appointed by the Commission to the credit of the Commission.

Power to
lease land.
26/1980
S. 9.

23. Any lands vested in the Commissioner of Lands or in the Commission under this Act and any lands acquired for the purposes of the works may be leased by the Commission:

2/2004
S. 6.

Provided that no lease which reserves a rent exceeding one million dollars a year or such other amount as may be prescribed shall be made in pursuance of this section without the prior sanction of the Minister.

Power to
lock off
water.
26/1980
S. 9.

24. It shall be lawful for the Commission, on non-payment of any rate or any money payable under the provisions of this Act or any other enactment for the time being in force in relation to water supply services, to lock off the supply of water from any premises supplied with water by the Commission.

Unauthorized
taking of
water an
offence.
26/1980
S. 9.
2/2004
S. 7.

25. Any person who, not being supplied with water by the Commission, takes water from the water works of the Commission, other than such as may have been provided for the gratuitous use of the public, shall be guilty of an offence.

Owner or
occupier of
premises
selling water
supplied by
Commis-
sion an
offence.
26/1980
S. 9.
2/2004
S. 8.

26. Any owner or person in possession of the whole or any part of any premises supplied with water by the Commission who sells or supplies to any person or permits any person to take any such water from the premises, except with the written approval of the Commission, shall be guilty of an offence.

27. *[Deleted by Act 2 of 2004.]*

28. Every offence against this Act or any regulations hereunder shall be tried summarily before a Resident Magistrate and any person convicted of any such offence shall, where no other penalty is provided by this Act, be liable to a penalty not exceeding two hundred and fifty thousand dollars and, in default of payment thereof, to imprisonment, with or without hard labour, for a term not exceeding three months.

Offences,
how tried
and
penalties.
26/1980
S. 9.
2/2004
S. 10.

29. [*Deleted by Act 36 of 1995, 3rd Sch.*]

30. All questions arising under this Act between the Commission and the Kingston and St. Andrew Corporation shall, in the case of dispute, be referred to the Minister whose decisions shall be final.

Reference
of disputes
to Minister.
26/1980
S. 9.

26/1980
S. 4 &
S. 10.
Appoint-
ment of
members.
32/1988
S. 2.

1. The Commission shall consist of nine persons to be appointed by the Minister, of whom at least one shall be a duly qualified civil engineer and at least one shall be a person with experience in commercial undertakings.

Temporary
appoint-
ments.

2. The Minister may appoint any person to act temporarily in the place of any member of the Commission in the case of the absence or inability to act of such member.

Chairman.

3.—(1) The Minister shall appoint one of the members of the Commission to be the Chairman thereof.

(2) The Commission may by instrument in writing direct that subject to such conditions as may be specified in that instrument, such of the functions of the Commission as may be so specified shall (without prejudice to the performance of those functions by the Commission) be performed by the Chairman.

(3) The Minister shall appoint one of the members of the Commission to be the Deputy Chairman thereof.

(4) In the case of the absence or inability to act of the Chairman the Deputy Chairman shall perform the functions of the Chairman.

(5) In the case of the absence or inability to act of the Chairman and the Deputy Chairman the Minister may appoint one of the remaining members of the Commission to perform the functions of the Chairman.

(6) In the case of the absence or inability to act at any meeting of both the Chairman and the Deputy Chairman the remaining members of the Commission shall elect one of their numbers to act as Chairman at that meeting.

Tenure of
office.

4.—(1) A member of the Commission shall, subject to the provisions of this Schedule, hold office for such period not exceeding three years as may be specified in the instrument appointing him, and shall be eligible for reappointment.

(2) The Minister may at any time revoke the appointment of any member of the Commission.

Resigna-
tion.

5.—(1) Any member of the Commission, other than the Chairman, may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the Chairman, and from the date of the receipt by the Minister of such instrument such member shall cease to be a member of the Commission.

(2) The Chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt of such instrument by the Minister.

6. The names of all members of the Commission as first constituted and every change in the membership thereof shall be published in the *Gazette*. Publication of membership.

7. (1) The seal of the Commission shall be authenticated by the signatures of the Chairman or one member of the Commission authorized to act in that behalf and the Secretary of the Commission. Authentication of seal and documents.

(2) All documents, other than those required by law to be under seal, made by, and all decisions of, the Commission may be signified under the hand of the Chairman or any member authorized to act in that behalf or the Secretary of the Commission.

8. (1) The Commission shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times and on such days as the Commission shall determine. Procedure and meetings.

(2) The Chairman may at any time call a special meeting of the Commission and shall call a special meeting to be held within seven days of a written request for that purpose addressed to him by any two members of the Commission.

(3) The Chairman or, in the case of the absence or inability to act of the Chairman, the Deputy Chairman or the person elected to act as Chairman in accordance with the provisions of sub-paragraph (6) of paragraph 3 shall preside at the meetings of the Commission, and when so presiding the Chairman, Deputy Chairman or the person elected as aforesaid to act as Chairman, as the case may be, shall have an original and a casting vote.

(4) The quorum of the Commission shall be three including the Chairman or the Deputy Chairman or the person elected to act as Chairman as aforesaid.

(5) Subject to the provisions of this Schedule the Commission may regulate its own proceedings.

(6) The validity of any proceeding of the Commission shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

9. There shall be paid to the Chairman and other members of the Commission such remuneration, if any (whether by way of salaries or travelling or other allowances) as the Minister may determine. Remuneration of members.

Funds of the Commission.

10. The funds of the Commission shall consist of such moneys as may from time to time be placed at its disposition for the purposes of this Act by Parliament and such other moneys as may lawfully be paid to the Commission.

Power to appoint officers, agents and servants

11. The Commission may appoint and employ at such remuneration and on such terms and conditions as it thinks fit, a Secretary, and such officers, agents and servants as it considers necessary for the proper performance of its functions.

Regulations governing conditions of service of officers and servants.

12. The Commission may with the approval of the Minister make regulations determining generally the conditions of service of officers or servants of the Commission and in particular, but without prejudice to the generality of the foregoing power, may make regulations relating to—

- (a) the appointment, dismissal, discipline, hours of employment, pay and leave of such officers or servants;
- (b) appeals by such officers or servants against dismissal or other disciplinary measures;
- (c) the grant of pensions, gratuities and other benefits to or in respect of the service of such officers or servants;
- (d) the establishment and maintenance of sick funds, superannuation funds and provident funds, the contributions payable thereto and the benefits receivable therefrom.

Protection of members of Commission.

13. (1) Save under section 15, no action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Commission in respect of any act done *bona fide* in pursuance or execution or intended execution of this Act.

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(2) Where any member of the Commission is exempt from liability by reason only of the provisions of this paragraph the Authority shall be liable to the extent that it would be if the said member was a servant or agent of the Commission.

Office of member of Commission not public office for the purposes of Chapter V of the Constitution.

14. The office of member of the Commission shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica.

(Inserted by Act 26 of 1980 S. 10).

SECOND SCHEDULE

Saving and transitional provisions consequent on repeal of the Kingston and St. Andrew Water Commission Act

Interpretation of this Schedule.

1. In this Schedule—

“Area” means the Corporate Area as defined and described in

the First Schedule to the Kingston and St. Andrew Corporation Act;

“the amending Act” means the National Water Authority (Change of Name and Amendment) Act, 1980;

“the repealed Act” means the Kingston and St. Andrew Water Commission Act;

“the subsequent Act” means the National Water Authority Act as amended by the amending Act.

2.—(1) The water works and sewerage, and all lands, easements, and buildings, purchased for, belonging or appertaining to, or used in connection with the water works or sewerage and vested in the Commissioner of Lands (and which by virtue of section 10 of the repealed Act remained vested in the said Commissioner of Lands for the benefit of the inhabitants of the Area) shall, subject to such trusts affecting the same as are declared and expressed in any enactment regulating the establishment, maintenance and control of such works, continue to be so vested:

Vesting of works.

Provided that the National Water Commission shall have entire occupation of the works and sewerage and shall, subject to any general or special directions given to the said National Water Commission by the Minister and to any rules made under any such enactment or the subsequent Act, manage, maintain, control and supervise the works and sewerage and generally carry into effect the provisions of the subsequent Act.

(2) Such occupation, management, maintenance, control and supervision, and the imposition, payment, recovery and enforcement of payment of rates, or sums of money, due from persons making use of the water or the works, or any part thereof, shall be exercised and regulated by or under the provisions of the subsequent Act and of any other enactment for the time being in force regulating the same.

3. All other property real and personal, purchased for, or belonging or appertaining to, or heretofore used in connection with, the water works or sewerage, including all moneys standing to the credit of, or receivable by the Water Commission established by the repealed Act, in respect of such works, and all other moneys standing to the like credit, or similarly receivable, and derived, or to be derived, from loans raised, or to be raised at the 13th day of October, 1980, for the purposes of the works or any of them, and all interests, rights and easements into or out of the said property, real or personal (including things in action) which belong to, or are vested in, or would but for the amending Act have belonged to or vested in, the said Water Commission shall, without any conveyance, assignment or other transfer, belong to and be vested in the National Water Commission established under the subsequent Act, subject to all and any trusts and to all debts, liabilities and obligations affecting the same

Vesting of real and personal property.

and subject to the provisions of the subsequent Act and of all enactments, or rules made under that Act or any enactment, regulating the management, maintenance, control, supervision and dealing with such property or moneys.

Transfer and vesting of powers, rights and liabilities.

4.—(1) Subject to the provisions of the subsequent Act, all the powers, rights, duties, capacities, liabilities and obligations exercisable by or attaching to, the said Water Commission, at the 13th day of October, 1980, in relation to the water works and sewerage, including liability for interest on any loan raised, or to be raised, in relation to such works and sewerage and for contribution to any redemption fund established in connection with any such loan, are hereby transferred and attached to the National Water Commission established under the subsequent Act.

(2) Without prejudice to the generality of this paragraph the powers conferred by section 5(3) and by section 8(3) of the Local Improvements Act, in relation to sewers and water pipes, shall be transferred to and vested in the Chairman of the National Water Commission, and the National Water Commission, respectively, appointed and established under the subsequent Act.

Saving of existing rates and contracts.

5. All compulsory and voluntary water rates or contracts for the supply of water within the Area, or in existence at the 13th day of October, 1980, shall continue in full force and effect until new rates or contracts may be made under the subsequent Act or under the provisions of any enactment for the time being in force regulating the same, and all such rates and any money payable under any such contract shall be paid, and shall, subject to the provisions of the subsequent Act, be recoverable, collectable and payable, in accordance with an under the provisions of any enactment for the time being in force regulating such recovery, collections and payments.

Application of Acts to works.

6. Subject to the provisions of the subsequent Act, the provisions of all Acts in operation at the 13th day of October, 1980, relating to water works and sewerage within the Area shall apply to the water works and sewerage under the subsequent Act in like manner as they apply to the water works and sewerage under those Acts; and references to “the Commissioners”, the “Kingston General Commissioners”, the “Managing Commissioner”, in any of those Acts in relation to the water works or sewerage shall, where the context admits, be deemed to be references to the National Water Commission established under the subsequent Act, and the Chairman thereof respectively, and the said Acts shall be read and construed accordingly.

Saving of rights of existing staff.

7. Unless and until other arrangements are made with the approval of the Minister, and subject to the provisions of this Schedule, all officers and servants holding office or serving under the Water Commission at the 13th day of October, 1980, shall, from and after that date, hold under the National Water Commission the like respective offices

or employments and by the same tenure and upon the same terms as before the 13th day of October, 1980, they held those offices under the Water Commission.

8. Unless and until other provisions are made pursuant to the subsequent Act the National Water Commission may, with the approval of the Minister, grant to any officer or servant who is holding office or is serving under the Water Commission at the 13th day of October, 1980, and who has served under the Water Commission in an established capacity as a permanent officer or servant, a pension, superannuation allowance or gratuity on the same terms and subject to the same conditions on which such pension, superannuation allowance or gratuity would have been granted to such officer or servant if the amending Act had not been enacted and, where he has service under the National Water Commission, that service had been service under the Water Commission.

Responsibility of National Water Commission for pensions, etc. of existing staff.

9. Until other provision is made pursuant to the subsequent Act, all offices, appointments, orders, notices, documents, proceedings and generally all acts of authority which originated under the repealed Act or any Act thereby repealed and are subsisting and in force at the 13th day of October, 1980, shall enure for the purpose of the subsequent Act as fully and effectually as if they had originated under the provisions of the subsequent Act.

Saving of acts of Water Commission.

10. Until other provision is made pursuant to the subsequent Act, all rules and regulations made by virtue of the repealed Act and in force at the 13th day of October, 1980, shall remain in force.

Saving of rules and regulations made by Water Commission.

11. From and after the 13th day of October, 1980, in any other Act or in any regulation or instrument in writing issued pursuant to a statutory power which is in force or has effect on that date, references to the Water Commission shall be construed as references to the National Water Commission and references to members of the Water Commission shall be construed as references to the members of the National Water Commission and references to the powers, duties, liabilities or property of the Water Commission shall be construed as references to the powers, duties, liabilities or property of the National Water Commission.

Construction of references to Water Commission.