

LAWS OF DOMINICA
WATER AND SEWERAGE ACT
CHAPTER 43:40

Act 17 of 1989

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□ **Note**

**on
Subsidiary Legislation**

This Chapter contains no Subsidiary Legislation.

**Note
On
Sections 8(5) and 72**

The Central Water Authority Act 1967 (Act No. 33 of 1967) was repealed by the Central Water Authority (Repeal and Vesting of Property) Act 1986 (Act No. 19 of 1986), and all Regulations made under the former Act were preserved and continued in force by the latter Act. The latter Act has in turn been repealed by this Act which ordains that the Regulations preserved and continued in force by the latter Act shall, insofar as they are not inconsistent with the provisions of this Act, continue in force until revoked by this Act.

(See Central Water Authority Regulations 1972 - S.R.O. 1/1972 as amended by S.R.O. 30/1973; 3/1992 and 61/1992).

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WATER AND SEWERAGE ACT

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CHAPTER 43:40

WATER AND SEWERAGE ACT

□(17 of 1989.)

AN ACT to make provision for a national policy for water, for the granting of an exclusive licence to the Dominica Water and Sewerage Company Limited for the development and control of water supply and sewerage facilities in Dominica and for connected or incidental purposes.

□(Commencement.)

[18th January 1990]

□PART I
PRELIMINARY

□(Short title.)

1. This Act may be cited as the -

WATER AND SEWERAGE ACT.

□(Interpretation.)

2. In this Act -

"aquifer" means a geological structure or formation or an artificial landfill permeated or capable of being permeated permanently or intermittently with water;

"bore" means any bore, hole, well, excavation or other opening in the ground or any naturally or artificially constructed or improved underground cavity which could be used, is used or may be used for the purpose of intercepting, collecting, obtaining or using groundwater or for the purpose of disposing of any water or waste below the surface of the ground, or which extends to an aquifer;

"charge" means any charge or rate levied by the Company under this Act;

"Company" means the Dominica Water and Sewerage Company Limited and also any person duly authorised by the Company;

"cut off", in relation to the supply of water, means to stop the supply whether by operating a tap, by disconnecting pipes or otherwise;

"debenture" means any debenture, debenture stock, mortgage, bond, security or note issued by the Company and for the time being outstanding;

□ "environment" means all aspects of the surroundings of man including the physical, biological, economic, cultural and social aspects;

(Ch. 25:01.)

"existing sewerage system" means the sewerage system that, at the commencement of this Act, is vested in the Roseau City Council under the Roseau City Council Act and any other system of sewers for the disposal of sewerage now vested in the Housing Division of Government;

"financial year" means such period of twelve months as the Company with the approval of the Minister may determine to be its financial year; however the first financial year shall be the period commencing with the commencement of this Act and ending on such day as shall be fixed by the Company with the approval of the Minister;

"gathering ground" or "catchment area" means any surface of land or device which collects the rainfall for the purpose of the waterworks;

"Government" means the Government of the Commonwealth of Dominica;

"groundwater" means all water occurring or obtained from below the surface of the ground other than water contained in works, not being a bore, for the distribution, storage or treatment of water or waste, and includes water occurring in or obtained from any bore or aquifer;

"land" includes premises;

"meter" means any appliance used to measure, ascertain or regulate the amount of water taken or used from the waterworks by means of any service, as well as any appliance used in estimating the flow of water in or from any part of the waterworks;

"Minister" means the Minister responsible for water supply;

"Ministry" means the Ministry responsible for water supply;

"owner", in relation to any building or land, means a person, other than a mortgagee not in possession, who for the time being is entitled to dispose of the right of ownership of the building or land whether in possession or reversion, and also a person holding or entitled to the rights and profits of the building or land under a lease or agreement the unexpired term whereof exceeds three years, or the landlord or his agent if the landlord is absent or under any disability, or if there be no such agent the occupier of the building;

"potable water" means water which is satisfactory for human consumption and meets the requirements of the health authority;

"public stand-pipe" means any fountain, stand-pipe, stand-post, valve, tap or appliance used or intended to be used for or in connection with the supply of water directly to the members of the public generally or to the members of a section of the public from the waterworks;

"premises" includes any building or structure, whether of a temporary or permanent nature;

(19 of 1986.)

"repealed Act" means the Central Water Authority (Repeal and Vesting of Property) Act 1986 (repealed by this Act);

"rooftop catchment" means any installation or device suitable for the collection of rainwater on the roof of buildings or dwelling houses;

"sewerage" includes industrial and commercial waste and such other matter or substance as may be prescribed;

"sewerage works" means any works for the collection, transmission, treatment and disposal of sewerage or any part of such works;

"sewerage system" means the existing sewerage system and any sewers hereafter constructed by the Government or the Company, or under any agreement between the Government, or the Company, and contractors relating to such system of sewers whereby sewerage is or is intended to be conveyed and disposed of ;

"subsistence garden" means a garden appurtenant to, or used in connection with, a dwelling or group of dwellings for the subsistence of the residents thereof, the produce of which is predominantly consumed by such residents and is not sold or bartered;

"street" includes any highway, road, lane, footway, square, court, alley or passage, whether a thoroughfare or not;

"supply of potable water for domestic purposes" means -

(a) a supply of water for drinking, washing, cooking and sanitary purposes; and

(b) also, a supply of water for watering a garden, a lawn, a driveway, for horses or other animals kept for private use and for washing vehicles so kept;

but does not include a supply of water for industrial or commercial purposes;

"supply of water for industrial or commercial purposes" means a supply of water used in connection with any profession, trade, business, industrial or commercial enterprise;

"use", in relation to water, includes to withdraw, pump, extract, take, use or re-use or divert for the purpose of using or re-using, that water;

"waste" includes sewerage and any other matter or thing whether wholly or partly in solid, liquid or gaseous state, which may cause water pollution;

"water", "waters" and "water resources" mean -

(a) water flowing or situated upon the surface of any land;

(b) water flowing or contained in -

(i) any river, stream, creek or other natural course for water;

(ii) any lake or spring, whether or not it has been altered or artificially improved;

(c) groundwater;

(d) any water contained by works acquired, constructed, improved or operated by or on behalf of the Company pursuant to Parts III and IV;

(e) any estuarine or coastal water prescribed by the Minister by Order published in the Gazette, as water to which this Act or any Part or provision thereof applies;

"watercourse" includes all rivers, streams, ditches, drains cuts, culverts, dykes and passages through which water flows, whether on the surface or underground, except water-mains and sewers;

"waterworks" includes all existing reservoirs, intakes, catchments, dams, tanks, cisterns, deepwells or boreholes, tunnels, pillar beds, conduits, aqueducts, pipes, fountains, sluices, valves, hydrant pumps, and all other structures or appliances which are used or intended to be used or constructed for the supply, storage, purification, conveyance, support, measurement or regulation of water by or on behalf of the Company, or which may hereafter be used or constructed for the aforesaid purpose by the Company and which belong to or are managed by or vested in the Company;

"works" includes waterworks.

PART II

NATIONAL POLICY AND LICENSING OF THE COMPANY

(Statement of national policy.)

3. (1) It is hereby declared to be the policy of the Government to see to the orderly and coordinated development and use of Dominica's water resources, to conserve and protect such resources for the benefit of present and future generations of Dominicans, and to provide the Dominican public with a safe, adequate and reliable supply of water and with dependable public sewerage services.

(2) The Government shall, in keeping with subsection (1), promote a national policy for water in Dominica and shall so discharge its functions in respect of the following matters, namely -

(a) the provision of water supplies and the conservation, augmentation, distribution and proper use of water resources including preservation and protection of gathering grounds;

(b) sewerage and the treatment and disposal of sewage and other effluents,

as to secure the effective execution of that policy by the bodies responsible therefor.

(3) The Minister with assistance from the Company shall collate and publish information from which assessments can be made of the actual and prospective demand for water, and of actual and prospective resources in Dominica.

(Water and Sewerage Advisory Council)

4. (1) The Minister may appoint a Council to be called the Water and Sewerage Advisory Council for the purpose of -

(a) advising him or any other Minister concerned upon matters connected with water, the conservation and use of water resources or the sewerage system and sewerage disposal;

(b) advising any Minister concerned with the administration of enactments that -

(i) relate to or in any way affect the conservation or use of water resources or the provision of water supplies; or

(ii) relate to the sewerage system and sewage disposal, upon any question that may be referred by him to the Council in connection with the operation, or proposed amendment of, the said enactments;

(c) considering the operation of any such enactment, and making to the Minister concerned such representations with respect to matters of general concern arising in connection with the operation of those enactments, and such recommendations for their extension or modification, as the Council thinks fit.

(2) The Minister may by Order make provision with respect to the constitution and procedure of the Council and for the setting up of temporary or Standing Committees of the Council.

(Grant of licence.)

5. (1) Subject to the provisions of this Act, for the period specified under subsection (2), the Government hereby grants the Company an exclusive licence -

(a) to provide the inhabitants of Dominica with an adequate water service and any other service or facilities deemed incidental or appropriate thereto;

(b) to provide the service of removal of sewage by means of the sewerage system or any part thereof, including services incidental thereto, and permitted under this Act.

(2) The licence granted -

(a) in respect of subsection (1)(a) shall be for a period of twenty five years commencing from the commencement of this Act;

(b) in respect of subsection (1)(b) shall be for such period and take effect on such date as the Minister may by Order prescribe.

(sub-licences.)

6. With the prior approval of the Minister, the Company may authorise in writing any person during the whole or any part of the period of the licence to provide any service referred to in section 5(1)(a) and (b) upon such terms and conditions and within the area specified in the authority; any person so authorised is hereinafter referred to as "sub- licensee".

(No person to provide services referred to in paragraphs (a) and (b) of section 5(1).)

7. (1) During the continuance of the licence no person except the Company, a sub-licensee or Government shall provide any service referred to in section 5(1)(a) and (b).

(2) Any person who contravenes subsection (1) is liable on summary conviction to a fine of two thousand dollars and to imprisonment for six months; and in addition thereto he may be ordered by the High Court to dismantle his equipment or apparatus used at his own expense within such time as the Court may prescribe; and if he fails to obey the order of the Court within the time prescribed, the Court shall order the equipment or apparatus to be dismantled by the Company and order such person to pay the Company its reasonable charges for dismantling the equipment or apparatus.

PART III VESTING OF PROPERTY IN THE COMPANY

(Assets and liabilities of the Company.

19 of 1986.)

8. (1) Subject to the provisions of this Act -

(a) all lands and other property of every kind vested or deemed to be vested immediately before the commencement of this Act in the Government under the repealed Act and relating to waterworks shall be deemed to be transferred and vested in the Company from the commencement of this Act;

(b) all lands and other property of every kind vested or deemed to be vested immediately before the period prescribed by Order under section 5(2)(b) in -

(Ch. 25:01.)

(i) the Roseau City Council under the Roseau City Council Act and relating to sewage works or the existing sewerage system in Roseau.

(ii) the Housing Division of Government and relating to sewage works or any sewerage system,

shall be deemed to be transferred and vested in the Company from the commencement of the period prescribed by Order under section 5(2)(b);

(c) all rights, powers, privileges and advantages, and all liabilities and obligations that -

(i) immediately before the commencement of this Act, the Government was entitled to in relation to matters referred to in paragraph (a);

(ii) immediately before the period prescribed by Order under section 5(2)(b), the Roseau City Council or the Housing Division of Government were entitled or subjected to in relation to matters referred to in paragraph (b),

shall be deemed to be transferred to, and conferred or imposed upon, the Company for the purposes of this Act, during the continuance of the licence.

(2) A reference in any deed, contract, bond, security or other document made -

(a) before the commencement of this Act,

(i) to the Government relating to waterworks referred to in subsection (1)(a), or

(ii) to the Authority, concerning waterworks;

(b) before the commencement of the period prescribed by Order under section 5(2)(b),

(i) to the Roseau City Council relating to sewage works or the existing sewerage system in Roseau referred to in subsection (1)(b)(i), or

(ii) to the Housing Division of Government and relating to sewage or any existing sewerage system referred to in subsection (1)(b)(ii),

□ shall, unless the context otherwise requires, be construed as a reference to the Company, in the case of paragraph (a) from the commencement of this Act, and in the case of paragraph (b) from the commencement of the period prescribed by Order under section 5(2)(b).

(3) Any legal proceedings pending or existing -

(a) immediately before the commencement of this Act, by or against the Government; or

(b) immediately before the period prescribed by Order under section 5(2)(b), by or against the Roseau City Council or the Housing Division of Government, in relation to matters respectively mentioned in subsection (1) shall be deemed to subsist and may be continued by or against the Company as the party to the proceedings instead of the Government, the Roseau City Council or the Housing Division of Government, as the case may be.

(4) The Minister may by Order make such provision as may appear to him to be expedient for securing the effective transfer to or vesting in the Company of any rights, powers, assets or liabilities referred to in this section and for matters incidental thereto.

(33 of 1967.)

* (5) For the purposes of subsection (2), "Authority" means the Dominica Central Water Authority established under section 3 of the Central Water Authority Act, 1967.

PART IV

FUNCTIONS, POWERS AND DUTIES OF TIFE COMPANY

(Functions.

19 of 1986.)

9. (1) Subject to the provisions of this Act, the functions which immediately before the commencement of this Act were exercisable by Government under the repealed Act shall be exercisable by the Company.

(2) Without prejudice to the generality of subsection (1), the Company is responsible,

(a) from the commencement of this Act,

(i) for carrying out Government policy in relation to water supply,

(ii) for maintaining and developing the waterworks and other property relating thereto transferred to it by section 8, and

(iii) for providing the Dominican public with a safe, adequate and reliable supply of water;

(b) from the commencement of the period prescribed by Order under section 5(2)(b), for carrying out Government policy in relation to sewerage and providing the Dominican public with dependable sewerage services.

*See Note on Subsidiary Legislation at page 2.

(water conservation.)

10. (1) The Company shall, in consultation with the Ministry and the Ministries having responsibility for Agriculture, Forestry and Lands, take such action as may be necessary or expedient for the purpose of conserving, redistributing or otherwise augmenting water resources in Dominica.

(2) Without prejudice to the generality of subsection (1), the Company shall -

- (a) prepare and thereafter keep under review a hydrometric scheme for obtaining, recording and analysing particulars of rainfall, evaporation of water and the flow level or volume of inland waters;
- (b) carry out periodical surveys of water consumption patterns in Dominica and prepare reports thereon;
- (c) prepare estimates of the future demand for the use of water;
- (d) prepare plans for the purpose of securing the more efficient management of water in Dominica, including the meeting of future demands for water and the use of water;
- (e) carry out such engineering or other operations as it considers necessary or expedient for the purpose of implementing any plan prepared under paragraph (d).

(3) In carrying out the provisions of subsection (2) the Company shall consult the Ministry, the Ministries having responsibility for Finance and Planning and any other Ministry, municipal or statutory authority likely to be affected and shall send to the Ministry, the Ministries having responsibility for Finance and Planning and to any other Ministry, municipal or statutory authority likely to be affected, a copy of any report prepared by the Company in consequence of any survey or plan under this section.

(Gathering grounds.)

11. (1) All existing gathering grounds shall either -

(Ch. 60:01.)

- (a) be retained as forest reserves or protected forests, as the case may be, in accordance with the provisions of the Forests Act; or
- (b) be declared to be controlled areas under section 40, as determined by the Minister in consultation with the Company.

(2) The area of any additional gathering ground which is considered necessary by the Company in the pursuit of its statutory purpose shall either -

- (a) be proclaimed a forest reserve or protected forest, as the case may be, in accordance with the provisions of the Forests Act; or
- (b) be declared to be a controlled area under section 40,

as determined by the Minister on the request of the Company.

(3) Whenever the Minister decides, upon representation being made by the Company under subsection (2), that an additional gathering ground is required for the purposes of extending or augmenting the water supply, the Company shall cause the limits or areas thereof to be marked out by the Company and the Minister shall by Notice in the Gazette publish the boundaries thereof and thereafter no land shall be granted, devised or otherwise disposed of within such limits or area except in keeping with such conditions as may be laid down by the Minister.

(4) The licence granted under section 5 shall apply not only to existing gathering grounds under subsection (1) but to any additional gathering ground under subsection (2).

(Protection of gathering grounds from deforestation and animals.)

12. If it appears to the Company that by reason of deforestation or the presence of animals the storage capacity or sanitation of any gathering ground is seriously threatened, it shall without prejudice to any other powers under this Act or Regulations made thereunder -

(Ch. 60:01.)

(a) request the Ministry responsible for Forestry to take appropriate action under the Forests Act to prevent or regulate the threat to the gathering ground, if the gathering ground has been retained or declared a forest reserve or a protected forest, as the case may be;

(15 of 1968.)

(b) request the Ministry of Health to take appropriate action under the Public Health Act 1968 or any Act replacing that Act to prevent or regulate the threat to the gathering ground, if the gathering ground has been declared a controlled area; or

(c) in default of action being promptly taken under paragraphs (a) or (b), restrain, impound or shoot such animals as are a threat to the storage capacity or sanitation of any gathering ground.

(Protection of defined area around gathering ground.)

13. (1) If it appears to the Company to be necessary for the purpose of protecting the storage capacity or sanitation in any gathering ground, it may request in writing that the Minister by Regulations -

(a) define an area around a gathering ground it considers in need of protection; and

(b) prohibit or regulate the doing within that area of any act specified in the Regulations.

(2) Upon a request being made under subsection (1), the Minister may make Regulations as he considers necessary, and such Regulations may contain different provisions for different parts of the defined area.

(3) Without prejudice to the generality of subsection (1)(b), the acts prohibited or regulated by Regulations made by the Minister under this section may include -

(a) the placing, deposit or discharge within the area of material of any kind that is likely to impair the quality or significantly reduce the quantity of the water or the storage capacity of the gathering ground;

(b) such other acts or omissions as may be considered likely to impair the quality or significantly reduce the quantity of the water or the storage capacity of the gathering ground.

(Water supply.)

14. (1) The Company shall, so far as reasonably possible, provide to the public, in accordance with the provisions of this Act, and any Regulations made thereunder, a supply of potable water for domestic purposes and a potable or otherwise satisfactory supply for agricultural, industrial or commercial purposes.

(2) In particular and without prejudice to the generality of subsection (1), the Company shall -

(a) prepare schemes for the development of water resources and for the provision of water supplies and construct, operate and maintain such schemes;

(b) keep under constant review the quality, reliability and availability of water supplies and keep the Minister informed thereon;

(c) control and regulate the production, treatment, storage, transmission, distribution and use of water for public water supply purposes;

(d) design, construct, acquire, operate and maintain water- works for the purpose of supplying water for public purposes;

(e) disseminate information and advice with respect to the management, collection, production, transmission, treatment, storage, supply and distribution of water.

(3) The Minister may as soon as reasonably practicable make Regulations for conserving water and for preventing waste, undue consumption, misuse or contamination of water supplied by the Company.

(4) Without prejudice to the generality of subsection (3), the Regulations may include provisions -

- (a) prescribing the size, nature, efficiency, materials, strength and workmanship, and the mode of arrangement, connection, disconnection, alteration and repair of the water fittings to be used;
- (b) forbidding illegal reconnection or the use of any water fittings which are of such a nature or are so arranged or connected as to cause or permit waste, unauthorised consumption, misuse, erroneous measurement or actual or potential contamination of water, or reverberation in pipes; and
- (c) prescribing the circumstances in which, and the methods by which, water supplied by the Company is to be stored and treated on any premises.

(Connection of lands to water supply.)

15. (1) Whenever it becomes possible to provide a water supply to any land from works acquired or constructed under this Act the Company may by Notice in the Gazette and one local newspaper with circulation throughout Dominica declare the works to be effective in that area.

(2) On and from the date of declaring the works to be effective -

(a) the owner of any land in the area is liable to such rates or charges as may be prescribed, whether or not the land -

- (i) is connected to the works;
- (ii) is occupied;

(b) the Company may, by notice in writing, require any owner of land in the area to connect that land to the works in the manner prescribed and within such time as is specified in the notice;

(c) the Company may, on its own initiative or on an application in the prescribed manner and form by an owner of land or his agent, agree to connect the land to the works on such terms and in such manner as is prescribed.

(3) A person who, having been served with a notice under subsection (2)(b), fails to comply with it is guilty of an offence under this Act.

(4) If the owner fails to comply with the notice within one month of the time specified in the notice or such further time as the Company may allow, the Company may undertake the work and recover the cost from the owner.

(5) Whenever the owner of land fails to undertake work required of him under this section, the occupier of that land may, with the approval of the Company, execute the work and may deduct the cost thereof, with interest at the rate of ten per cent per annum until repayment is made from any rent due or becoming due from him to that owner or may recover the same from the owner.

(Powers of Minister in water-related emergencies.)

16. (1) If the Minister is satisfied that by reason of an exceptional shortage of rain, or contamination of water sources or watercourses, a serious deficiency of supplies of water exists or is threatened, then he shall by Regulations after consultation with the Company, and subject to the provisions of this section, make such provision as appears to him to be expedient, with a view to meeting the deficiency.

(2) Without prejudice to the generality of subsection (1), the Regulations may include provisions authorising the Company to -

- (a) take water from any source specified in the Regulations;
- (b) prohibit or limit the use of water for any purpose;

(c) prohibit or limit the taking by any person of water from a source specified in the Regulations if the Minister is satisfied that the taking of water from that source seriously affects the supplies available to the Company;

(d) supply water by means of stand-pipes or water tanks, and to erect or set up and maintain stand-pipes or water tanks in any street.

(3) The Minister shall give reasonable public notice of the making of any Regulations under subsection (1); and the Company is liable to pay compensation to any person who suffers damage by reason of things done or omitted by the Company in pursuance of such Regulations.

(4) Regulations made under subsection (1) shall remain in force no longer than is necessary to meet the deficiency or threatened deficiency but shall be revoked as soon as practicable after the deficiency or threatened deficiency has been made good or removed.

(Public stand- pipes.)

17. The Company may in its discretion erect, maintain and supply with water, in such places within Dominica as it thinks fit, public stand-pipes for the public use, and may, with the approval of the Minister when Government pays for the service or of the relevant municipal authority when such municipal authority pays for the service, remove any such stand-pipe which in its opinion is no longer required.

(Ground and rooftop catchments.)

18. (1) The Company may procure and protect land on which it elects to erect, operate and maintain ground catchments for the supply of water.

(2) The Company may, at the request of the owner or occupier of any building or dwelling house, provide technical and financial assistance towards the installation of rooftop catchments on such building or dwelling house.

(Ministry of Health to be responsible for quality of water supplied)

19. (1) Subject to section 14, the control of the quality of the water supplied by the Company shall be the responsibility of the Ministry charged with the subject of Health.

(2) All directives, instructions, regulations and standard set up by the Ministry responsible for Health for the quality of water and any sanitary aspect of the waterworks shall be obeyed and complied with by the Company.

(3) Any duly authorised officer of the Ministry responsible for Health may, on identifying himself to an officer of the Company, enter the premises of any plant or waterworks for the purpose of inspecting or taking samples of water and of verifying that regulations and standards issued by that Ministry are complied with.

(4) Any person who hinders or obstructs any duly authorised officer of the Ministry responsible for Health from entering the premises of any plant or waterworks under this section is liable on summary conviction to a fine of five hundred dollars.

(Sewerage system and sewage disposal.)

20. (1) The Company shall, so far as reasonably possible, provide in accordance with the provisions of this Act and any Regulations made thereunder such public sewers as may be necessary and make such provision, by means of sewage disposal works, marine treatment or otherwise, as may be necessary for effectually dealing with the contents of the sewerage system.

(15 of 1968.)

(2) In discharging its functions under this section the Company shall comply with the Public Health Act, 1968 or any Act replacing that Act and the Regulations made thereunder.

(3) In particular and without prejudice to the generality of the provisions of subsection (1), the Company may -

- (a) prepare schemes for sewage disposal services and construct, maintain and operate such schemes;
- (b) design, construct, acquire, operate and maintain sewage works for the purpose of receiving, treating and disposing of sewage;
- (c) control and regulate the disposal of sewage through the sewerage system;
- (d) by Regulations under this Act, control the installation, operation and maintenance of sewers and waste disposal systems which are not connected to the sewerage system.

(Connection of lands to sewerage works.)

21. The provision of section 15 shall apply mutatis mutandis to the connection of lands to sewerage works as if any reference therein contained to water supply works were a reference to sewerage works.

(Services of Company to be paid for.)

22. (1) Subject to subsection (2), the Company shall render no free the service, and the charges for services rendered to Government or to any municipal authority shall be deemed to be ordinary expenses of Government or the relevant municipal authority and shall be paid from appropriations made for such purposes. Such payments shall be made in accordance with provisions regulating the disbursement of public funds.

(2) The Company shall not charge for water used by the Fire Brigade in cases of fire and for water used in public conveniences.

(3) There shall be no direct charge for water used by the public from public stand-pipes, but this service shall be considered an obligation of Government or the relevant municipal authority who shall pay to the Company the price of water served through public stand-pipes.

(4) The Company shall enter into an agreement with the Government or the relevant municipal authority regarding the rate and manner of payment for its service.

(Compulsory acquisition and vesting of lands.)

23. (1) The Minister having responsibility for Lands may, when and as often as land is required for the purposes of this Act, acquire under Ch. 53:02. the provisions of the Land Acquisition Act any lands, and may exercise all powers under that Act in relation to any acquisition or intended acquisition of such lands.

(2) The Minister having responsibility for Lands may by Order vest any lands so acquired in the Company.

(3) Nothing herein contained shall prejudice the right of any person having an interest in any lands acquired as aforesaid under the provisions of the Land Acquisition Act; and compensation for any lands acquired under this section shall be determined in accordance with the provisions of section 19 of the Land Acquisition Act save that the date at which the compensation is to be assessed is the date from which the declaration pursuant to section 3 of the said Act is published in the Gazette for the second time.

(Access to lands and buildings.)

24. (1) Subject to subsection (3), any person duly authorised by the Company may at any reasonable time -

- (a) enter upon any land to inspect or survey it and to inspect any articles thereon for the purposes of determining whether, and if so in what manner any functions of the Company are to be performed in relation to such land or articles thereon or whether any statutory provision relating to any such function is being or has been complied with;
- (b) enter upon any land for the purpose of performing any function of the Company whether in relation to the land or not;

(c) enter any land or building -

- (i) to inspect the same for the purpose of investigating any defect in the water or sewerage system and of correcting any deficiency or problem in the respective systems;
- (ii) to ascertain the practicability or expediency of performing any function or exercising any power under this Act;
- (iii) to do all such other things as may be incidental to or necessary for the purposes of this Act,

without being subject or liable to any action, suit or proceedings, fine, penalty or punishment for or in respect of any such entry upon such land or building.

(2) A person authorised under subsection (1) to enter any land or building may take with him to the land or building in question such other persons and such equipment as may be necessary; and such other persons are not subject or liable to any action, suit or proceedings, fine, penalty or punishment for or in respect of any such entry upon such land or building.

(3) Before the exercise of any right of entry under this section the Company shall give reasonable notice in writing to the owner or occupier of the land or building in question except in an emergency when it shall be sufficient for notice to be given as soon as possible after the necessity for entry has arisen.

(4) Any equipment, property, apparatus or article which exists or is maintained in any building or on any land in contravention of the provisions of this Act or Regulations made thereunder shall be deemed to be a public nuisance.

(5) In the event that the owner, agent, or occupier of any building or land where a nuisance exists, refuses to remove or abate the nuisance after notice in writing from the Company is given to do so, the Company may remove or abate the nuisance at the expense of the owner, agent or occupier.

(6) The Company is not exempt from liability for nuisance or other injury done in exercising its powers to enter land, to the land or residence of any person other than the person whose land is entered.

(General powers.)

25. (1) Subject to the provisions of this Act, the Company may do anything that in the opinion of the Company is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.

(2) Without prejudice to the generality of subsection (1), the Company may -

(a) enter upon any land and construct or operate any works whatsoever for the supply of water, the provision of Sewerage, the disposal or treatment of waste;

(b) enter upon any land for the purpose of -

- (i) reading, removing or repairing a meter;
- (ii) inspecting any tank or septic system;
- (iii) inspecting any works, installations or appliances or taking any samples or making any tests to find out whether this Part of the Act is complied with;

(c) divert or impound water from a source located inside any gathering ground under section 11;

(d) break open any street for the purpose of laying any water main or sewer therein or of repairing or removing any such main or sewer.

(3) Before the exercise of rights under this section the Company shall -

(a) give reasonable notice to the owner or occupier of any land affected;

(b) in the case of the breaking open of any street, give reasonable notice to the authority responsible therefor and any public utility whose apparatus may be affected thereby,

except in an emergency when it is sufficient for notice to be given as soon as possible after the necessity for exercising those rights has arisen.

(4) Notwithstanding subsection (1), the Company's power -

(a) to dispose of any real property; or

(b) to enter into any agreement for the sale of water for use outside of Dominica,

is subject to the prior approval of the Minister.

(5) Any person who hinders or obstructs the Company or any person duly authorised by the Company from entering land under this section or any land or building under section 24 is liable on summary conviction to a fine of five hundred dollars.

(Payment of compensation.)

26. (1) Nothing in the provisions of this Act shall prejudice the right to compensation of any person who has an interest in or right over any land or property that is within the limits or area specified by Notice, Order or Regulations, as the case may be, under sections 11(3), 13, 40 or 52.

(2) When any person who has an interest in or right over any land or property referred to under subsection (1), claims that he ought to be pecuniarily compensated in relation to the curtailment or abrogation of such interest or right, he shall within three months of the Notice, Order or Regulations, as the case may be, lodge at the Ministry a statement of his claim with full particulars of his estimated loss.

(3) On a claim being lodged under subsection (2), the Minister shall appoint a Board of Assessment (hereinafter referred to as "the Board"), which in every case must be constituted of -

(a) a Judge of the Supreme Court, who shall be Chairman;

(b) such person as the claimant may nominate; and

(c) such other person as the Minister may nominate; but the person so nominated shall not be a public servant or a member or employee of the Company.

(4) The Board shall hear the claimant, consider his claim and make recommendations to the Minister. If the Board is not satisfied that the owner can be adequately compensated by the granting of permits, licences or by the making of appropriate regulations, they shall recommend a sum of money to be paid as compensation; and the Minister may instruct the Accountant General to pay such sum of money from the general revenue of the State as compensation to the person.

(5) Any person who is aggrieved by the decision of the Board may appeal to the High Court for the determination of the matter.

(6) In the exercise of any functions or powers conferred upon it by this Act, the Company shall cause as little damage and inconvenience to other persons as is reasonably practicable and the Company shall reinstate any damage or pay compensation to any person who suffers damage to his property in consequence of the exercise of such powers of the Company.

□(7) All losses, damages or injuries caused through the fault or neglect of the Company, its officers, agents or contractors either in the construction, operation or maintenance of the works contemplated by this Act to any property shall be paid by the Company.

(8) The Company is answerable for all damages and injuries caused through the fault or neglect of the Company or of any person in their employment, by reason of or in consequence of the exercise of any of the Company's functions or powers and shall save harmless all authorities, companies, bodies or persons by whom any street or road is repairable from all damage and costs in respect of those damages and injuries.

□PART V

FINANCIAL PROVISIONS

□(Finance.)

27. (1) The Company shall so exercise and perform its functions as to ensure that its revenues are not less than sufficient to -

- (a) pay compensation when required to do so;
 - (b) cover operating expenses, including taxes, if any, and to provide adequate maintenance and depreciation, and interest payments on borrowing;
 - (c) meet periodic repayment on long-term indebtedness to the extent that any such repayment exceeds the provisions for depreciation;
 - (d) create reserves for the purpose of future expansion,
- and the sums required for any of the purposes of the Company shall be met out of the funds and resources of the Company.

(2) Subject to subsection (1), the Company may, in such manner as is considered appropriate, but subject to the approval of the Minister, borrow sums required by it for meeting any of its obligations and discharging any of its functions.

(Funds and resources of Company.)

28. The funds and resources of the Company shall consist of -

- (a) all sums received by the Company in respect of charges levied and payable in pursuance of the provisions of this Act and any Regulations made thereunder;
- (b) all sums from time to time received by or falling due to the Company in respect of its operations;
- (c) sums borrowed by the Company for the purpose of meeting any of its obligations or discharging any of its functions;
- (d) all the share capital of the Company; and
- (e) all other sums or property that may in any manner become payable to or vested in the Company in respect of any matter incidental to its powers and duties.

(Tax concessions.)

29. (1) Notwithstanding the provisions in any other law, during the first fifteen years of the licence, the Company shall be exempt from payment of and liability to all income tax and other taxes based on income or profits.

(2) All dividends on shares and interest on indebtedness paid by the Company during the continuance of the licence shall be exempt from income tax or other taxes based on profits, in the hands of the recipient or recipients thereof.

(Duty free importation of goods.)

30. During the continuance of the licence, notwithstanding any law to the contrary, all plant, machinery, equip meters, instruments, vehicles, materials and consumable stocks imported by the Company for the purpose of the Company's business shall be exempt from all customs duties, taxes and landing charges; but such exemption shall not apply to any plant, machinery, equipment, meters, instruments, vehicles, materials and consumable stocks imported by the Company for resale.

(Exemption from stamp duties, etc.)

31. In carrying into effect the provisions of this Act during the continuance of the licence the Company shall be exempt from the payment of all transfer fees and stamp duties including stamp duties on arbitration awards.

(Grants in aid.)

32. The Company may subject to the approval of the Minister negotiate, apply for and accept grants in aid for any of its functions from any agency.

(Accounts and budget.)

33. (1) It shall be the duty of the Company -

- (a) to prepare a budget for each financial year;
- (b) to keep proper accounts and proper records in relation to the accounts;
- (c) to prepare in respect of each financial year a statement of accounts.

(2) As soon as the statement of accounts mentioned in subsection (1) is audited in accordance with subsection (3), the Company shall send to the Minister a copy of any report made by the auditor thereon and the Minister shall lay a copy thereof before the House of Assembly.

(3) All accounts of the Company shall be audited by qualified auditors appointed by the Company with the approval of the Minister.

□(Water and sewerage rates.)

34. (1) Subject to the provisions of this Act, and the approval of the Minister under section 35, the Company shall have power to fix, demand, take and recover rates and charges for the services performed, commodities or facilities provided or rights made available by the Company, including separate charges for separate services, commodities, facilities or rights or combined charges for more than one service, commodity, facility or right.

(2) Subject to the approval of the Minister under section 35, the Company may fix any of its charges by means of a scheme made under section 37 or by agreement with any person.

(3) Subject to subsections (4) and (5), the Company may fix its charges by reference to such criteria, and may adopt such systems for the calculation of their amount, as appear to the Company to be appropriate.

(4) Without prejudice to the generality of subsections (1) to (3) and subject to subsection (1), the charges fixed by the Company may include -

(a) a basic rate payable in respect of all premises other than those referred to in paragraphs (b) and (c), being such proportion of the assessed annual value of the premises for taxation purposes as the Company deems appropriate;

(b) a charge related to the quantity of water supplied to any premises;

(c) a charge related to the estimated usage, number of fixtures, minimum rate or similar method;

□(d) a charge for sewerage disposal services provided to any premises; and

(e) a charge related to the nature or composition of any trade effluent discharge to a public sewer.

(5) Nothing in any enactment or in any agreement or arrangement between any person and a predecessor of the Company shall so operate, in relation to the Company, as to oblige it to fix separate charges for separate services, facilities or rights.

(6) Until the Company has fixed rates and charges as authorised under this Act, the present authorised charges, rates and rents and the method of assessment and payment shall continue in full force and effect; and the bodies responsible for the collection of sewerage charges prior to the commencement of this Act shall continue to do so, until the public is notified to the contrary by Notice published in the Gazette.

(Approval by Minister of rates and charges.)

35. (1) The Company shall, as it considers necessary from time to time, serve a notice in writing on the Minister supported by the most recent audited profit and loss statement, stating any changes proposed to be made to the authorised rates and charges then in force and the time when the changes are to take effect.

(2) If within sixty days of the receipt of the notice under subsection (1) the Minister approves the changes to the authorised rates and charges proposed by the Company or any variation thereof agreed to by the Company, then notwithstanding anything contained in any other enactment, the authorised rates shall be changed in accordance with such proposals including any variations thereof as aforesaid and the Minister shall by Regulations cause notice of such changes of the rates and charges to be published in the Gazette.

(Ch. 43:01.)

(3) If within sixty days of the receipt of any notice served by the Company on the Minister in accordance with subsection (1) the Minister disapproves or does not approve the changes to the authorised rates proposed in the notice (or any such variation thereof as aforesaid) then the changes proposed by the Company shall be forthwith referred by the Company to the Commission who pursuant to the powers granted to it by the Public Utility Commission Act and taking into account the principle set out in subsection (5) shall determine whether or not and to what extent the changes in the authorised rates proposed by the Company are fair and reasonable.

(4) In the event that the authorised rates are increased with retrospective effect, the Company shall be entitled to amend any accounts or bills to consumers in respect of water supplied or for the use of the sewerage system between the date on which the increase became effective and the date on which the amount of the increase was approved by the Minister or, as the case may be, determined by the Commission.

(5) In determining whether or not the rates and charges which the Company may for the time being be authorised to charge are fair and reasonable and in determining whether or not the rates and charges by the Company at any time are producing a return in excess of a fair return upon the fair value of the Company's assets and (without prejudice to the generality of the foregoing) in determining pursuant to the provisions of subsection (3) whether the proposed rates and charges are fair and reasonable the Commission shall adhere to the principle that the Company's revenues must be sufficient to enable the Company to satisfy the requirements of section 27(1)(a) to (d).

□(Computation of charges.)

36. (1) In any case where charges are payable to the Company by reference to the volume of water supplied therefrom, or for any other reason, the Company may -

(a) install on those premises a meter for measuring that volume, and the register of the meter shall, subject to the provisions of any Regulations under this section, be prima facie evidence of that volume; or

(b) use any other means which it considers appropriate for determining the volume to be charged.

(2) In case of the failure of a meter installed under subsection (1)(a) or a dispute as to its accuracy the Company may use any other means which it considers appropriate for determining the volume to be charged.

(3) The Minister may by Regulations make provision with respect to the installation, connection, disconnection, maintenance, authentication and testing of meters and other related matters whether under this section or otherwise.

□(Charge schemes.)

37. (1) The Company may make a scheme (in this Act referred to as a "charge scheme") for the charges to be paid for any services performed, facilities provided or rights made available by the Company.

□(2) Charge schemes shall be so framed as to show the methods by which and the principles on which the charges are to be made, and if approved under section 35, the Company shall publish them in such manner as in the opinion of the Company will secure adequate publicity for them.

(3) A charge scheme may revoke or amend any previous charge scheme made by the Company.

(Recovery of debts and cutting off supplies.)

38. (1) All charges, compensations, damages, costs, expenses or other sums due to the Company under the provisions of this Act may be recovered by the Company as a civil debt.

(2) The Company may issue general or special directions to cut off and stop the supply of water to any premises in respect of which any charge is in arrear, despite proceedings for recovery thereof, and may continue the stoppage of such until all arrears of charges accrued or payable in respect of such premises, together with all reasonable charges in respect of re-connection, are paid.

(Owner and occupier liability.)

39. (1) Notwithstanding any agreement between the owner and occupier of premises, the Company may recover any rates or charges payable in respect of such premises from the owner and occupier jointly or severally.

(2) If the occupier, as between himself and the owner of the premises, is not liable to pay the rates or charges, he is entitled to deduct from the rent payable by him any sum paid by him in respect of such rates or charges.

(3) If the owner, as between himself and the occupier of premises, is not liable to pay the rates or charges the owner is entitled to recover as if it were additional rent, any sum payable by the occupier but paid by the owner.

(4) Unpaid rates and charges are a lien and charge against the premises in respect of which the debt is incurred.

PART VI CONTROL OF WATER ABSTRACTION AND USE

(Power of Minister to designate controlled areas or uses.)

40. (1) When the Minister is satisfied that the licensing of -

- (a) water abstraction and use in any area of Dominica (hereinafter referred to as "controlled area"); or
- (b) uses or classes of use of water in any area of Dominica (hereinafter referred to as "controlled use" or "control- led class of uses", as the case may be); or
- (c) any combination thereof,

is necessary in the public interest, he may declare by Order published in the Gazette the area, use or class of uses as a controlled area, controlled use or controlled class of uses, as the case may be.

(2) In exercising his authority under subsection (1) the Minister shall have regard to such factors as

- (a) the hydrology and hydrogeology of the area;
- (b) the established and projected water demands in the area;
- (c) the current and projected availability of water in the area; and
- (d) the actual or projected impact of given uses or classes of uses on water resources in general, including the impact of the disposal of wastewaters on water resources in general, or in relation to a specific area, having regard also to the technologies employed in the abstraction and utilisation of the water, and in the disposal of the wastewater.

□(Effects of declaration.)

41. (1) After the date on which an Order has been published in the Gazette in accordance with section 40, subsection to the provisions of section 11, no person or public authority can claim or obtain the right to abstract and use water and to construct works therefor except in accordance with the provisions of this Part.

(2) Any person or public authority who abstracts and uses water in respect of a controlled area or a controlled use or a controlled class of uses otherwise than in accordance with the provisions of this Part is guilty of an offence under this Act.

□(Private use of water.)

42. Subject to the provisions of section 16, the occupier of any land, his family and employees ordinarily resident on that land are entitled to abstract and use any water on, adjacent to, or under that land for the domestic necessities of his household, including the watering of live- stock and the irrigation of a subsistence garden, notwithstanding an Order made in accordance with section 40.

(Licence required.)

43. Subject to the provisions of sections 11 and 42, no person Shall abstract and use water, and co-nstruct works therefor in respect of a controlled area or a controlled use or a controlled class of uses of water except under and in accordance with a licence for the purpose granted to him by the Minister under this Part.

(Applications and licences and manner of dealing with them.)

44. (1) The Minister may make Regulations under this Act Which shall provide for -

- (a) conditions of eligibility to the making of applications them. under this Part;
- (b) the prescribed form and contents of applications, and relevant processing fees;
- (c) the manner of dealing with applications; and
- (d) the form, content, and the terms and conditions of licences.

(2) Inexercisinghisauthorityundersubsecton(1),theMinister shall have regard to the following:

- (a) the owners or occupiers of land on which, adjacent to which, or under which water occurs, and any person who has secured amicably or by compulsory acquisi- tion such an interest in the land as to give him access to the water shall be eligible to make an application under this Part;
- (b) an application under this Part may contain a request for the approval of proposals for the disposal of waste water if these have been classified for controlled dis- posal in accordance with Part VII or if the area where the proposed discharge occurs or which is affected by the proposed discharge has been classified in accord- ance with Part VII;
- (c) in the process of screening an application adequate opportunities must be provided for the protection of all actually or potentially affected interests, and for public comment;
- (d) the reason for decisions made on applications shall be given in writing.

(Forms, contents and terms of licence.)

45. (1) A licence under this Part shall be in such form, and shall contain such provisions as prescribed by the Minister in Regulations made in accordance with section 44.

(2) Without prejudice to the generality of the foregoing, a licence under this Part shall be -

- (a) subject to a term of duration;
- (b) renewable on expiration of the relevant term;
- (c) non-transferable.

□(Variation, suspension, revocation of licence.)

46. (1) A licence under this Part can be varied in any of its terms and conditions -

- (a) at the request of the licensee;
- (b) for non-use of water under the licence;
- (c) to accommodate a new abstraction and use of the water to which the licence relates,

in the manner prescribed in Regulations made in accordance with section 44; and a person whose licence is varied in accordance with paragraph (c) shall be entitled to receive compensation from the new licensee in the form of agreed deliveries of water, or otherwise as determined by agreement between the parties or, failing such agreement, by the Minister.

(2) A licence under this Part can be suspended or revoked -

- (a) at the request of the licensee;
- (b) for a breach of the provisions of this Act or of Regulations made under it, or of any of the terms and conditions of the licence;
- (c) if there has been waste or misuse of the water;
- (d) for non-use of water under the licence;
- (e) to accommodate a new abstraction and use of the water to which the licence relates,

in the manner prescribed in Regulations made in accordance with section 44.

□(3) Any person whose licence -

(a) is suspended or revoked in accordance with subsection (2)(b) to (d) shall be given an opportunity to exonerate himself, or to remedy the default;

(b) is revoked in accordance with subsection (2)(e) shall be entitled to receive compensation from the new licensee,

□ in the manner prescribed in Regulations made in accordance with section 44.

(Succession to licence.)

47. The Minister shall, by Regulations made in accordance with section 44, provide for the succession to a licence under this Part in the event that the licensee who is the owner or occupier of the land on which, adjacent to which, or under which the water to which the licence relates occurs, dies or ceases otherwise to be the owner or occupier of the whole or part of the relevant land.

(register of licences.)

48. The Minister shall, by Regulations made in accordance with section 44, provide for the recording of all licences under this Part, and of all action relevant thereto taken in accordance with section 46 in a Register of Water Abstraction Licences, and for the formation and upkeep of such Register.

(Licence not to dispense with planning permission. 17 of 1975.)

49. A licence granted under this Part shall not have the effect of dispensing with the necessity of obtaining planning permission where such permission is required under the Town and Country Planning Act 1975 or any other enactment replacing the same.

(Entitlement to licence.)

50. Any person who has abstracted and used water from a controlled area or for a controlled use or a controlled class of uses for a period of not less than twenty-four months before the coming into operation of an Order made in accordance with section 40 shall be entitled to the grant of a licence under this Part (hereinafter referred to as "licence of right"), in the manner prescribed by the Minister in Regulations made in accordance with section 44.

(Content etc., of licence of right.)

51. (1) A licence of right shall be in such form, and shall contain such terms and conditions as prescribed by the Minister in Regulations made in accordance with section 44. However, in making provision in a licence as to the quantities of water which should be authorised to be abstracted, and as to the purpose for which water should be authorised to be abstracted due regard shall be had for the requirements of the applicant as indicated by appropriate evidence.

(2) The provisions of sections 45 (2), and 46 to 49 shall apply in respect of licences of right as though any reference therein contained to licences were a reference to licences of right.

PART VII WATER POLLUTION CONTROL

(Power of Minister to designate controlled area, wastes.)

52. (1) When the Minister is satisfied that the licensing of -

- (a) the discharging of wastes into, or the depositing of such wastes on -
 - (i) any land;
 - (ii) any sewer or drain, whether or not the sewer or drain is vested in the Company;
 - (iii) any bore;
 - (iv) any water or watercourse,

in any area of Dominica (hereinafter referred to as "water quality control area");

(b) wastes or classes of wastes, by reason of their polluting or being likely to pollute water, if such wastes are discharged into, or deposited on -

- (i) any land;
- (ii) any sewer or drain, whether or not the sewer or drain is vested in the Company;
- (iii) any bore;
- (iv) any water or watercourse,

(hereinafter referred to as "controlled waste" or "controlled class of wastes" as the case may be); or

(c) a combination of both,

is necessary to protect the quality of water resources he may, by Order, declare the area, waste or class of wastes as a controlled water quality area, or controlled waste or controlled class of wastes, as the case may be.

(2) In exercising his authority under subsection (1) the Minister shall have regard to the factors listed in section 40(2), and to the necessity of protecting the health of the public and the requirements of established and intended uses of water resources, including protection of the fauna and flora of waters and watercourses; and he shall also have regard to the desirability of protecting and enhancing scenic and environmental values.

(Effects of declaration)

53. (1) After the coming into force of an Order made under section 52, no person or public authority shall discharge a waste in a water quality control area, or discharge a controlled waste or a controlled class of wastes or construct works therefor except in accordance with a permit for the purpose granted to him by the Minister under this Part.

(2) Any person or public authority who discharges waste in contravention of the provisions of this Part is guilty of an offence under this Act.

(3) For the purposes of this section "public authority" includes the Company.

(Permit not required in certain cases.)

54. A permit under section 53 shall not be required if the discharge or deposit -

(a) results from a use of water made pursuant to a licence under this Act to abstract and use water, and the licence was granted in accordance with section 44(2)(b);

(b) is in accordance with good agricultural practice, as determined by the Minister responsible for Agriculture;

(c) is caused or permitted in an emergency in order to avoid a greater danger to the public and, as soon as practicable thereafter, particulars of the discharge or deposit are furnished to the Minister.

(Company excused under specific circumstances.)

55. (1) The Company shall not be held to have violated the provisions of section 53 by reason only of the fact that a discharge from a sewer or works vested in them contravenes the conditions of a permit relating to the discharge if -

(a) the contravention is attributable to a discharge into the sewer or works caused or permitted by another person; and

(b) the Company either was not bound to receive the discharge into the sewer or works or was bound to receive it there subject to conditions which were not observed; and

(c) the Company could not reasonably have been expected to prevent the discharge into the sewer or works.

(2) A person shall not be held to have violated the provisions of section 53 in consequence of a discharge which he caused or permitted to be made into a sewer or works vested in the Company if the Company was bound to receive the discharge there either unconditionally or subject to conditions which were observed.

(Applications and permits and manner of dealing with them.)

56. (1) The Minister shall make Regulations to provide for -

(a) the prescribed form and contents of applications, and relevant processing fees;

- (b) the manner of dealing with applications;
- (c) criteria for decision making;
- (d) the prescribed form and provisions to be contained in the permit.

(2) Regulations made under subsection (1) shall provide for -

- (a) adequate opportunities for the representation of all actually or potentially affected interests, and for public comment; and
- (b) decisions on applications to be given in writing.

(Forms, contents, and terms of permit.)

57. (1) A permit under this Part shall be in such form, and shall contain such provisions as prescribed by the Minister in Regulations made in accordance with section 56.

(2) Without prejudice to the generality of the foregoing, permits under this Part shall be -

- (a) subject to a term of duration;
- (b) renewable on expiration of the relevant ten-n; (c) non-transferable.

(Variation, suspension, revocation of permit.)

58. (1) A permit under this Part can be varied in any of its terms and conditions at the request of the permit holder, or by the Minister, in the manner prescribed in Regulations made in accordance with section 56; but the Minister shall not be liable to pay compensation to the permit holder if in the opinion of the Minister the variation is required as a result of a change of circumstances which has occurred since the date of granting of the permit, and which could not reasonably have been foreseen on that date.

(2) A permit under this Part can be suspended or revoked at the request of the permit holder or by the Minister for a breach by the permit holder of any provisions of this Act or of any of the terms and conditions of the permit in the manner prescribed by Regulations made in accordance with section 56; but any permit holder whose permit has been suspended or revoked by the Minister shall be given an opportunity to exonerate himself or to remedy the default.

(Register of permits.)

59. The Minister shall, by Regulations made in accordance with section 56, provide for the recording of all permits under this Part and of all action relevant thereto taken pursuant to section 58 in a Register of Waste Disposal Permits, and for the formation and upkeep of such Register.

(Permit not to dispense with planning permission. 17 of 1975.)

60. A permit granted under this Part shall not have the effect of dispensing with the necessity of obtaining planning permission where such permission is required under the Town and Country Planning Act 1975 or any other enactment replacing the same.

(Special provisions for discharges in progress.)

61. (1) The provisions of sections 53 to 59 shall apply in respect to discharge under those sections which are in progress on the day an Order under section 52 is made, or to construction, reconstruction or alteration of relevant works which were in progress on that day.

(2) An application for a permit under subsection (1) shall be made before the end of a period of six months commencing on the date an Order under section 52 was made.

(3) The Minister shall not unreasonably withhold the grant of a permit on an application made under this section.

(Operations by Minister to remedy or forestall pollution.)

62. Where it appears to the Minister that any poisonous, noxious or polluting matter has entered or is likely to enter in any waters, he may carry out such operations as he considers appropriate to prevent the matter from entering the water, or to remove or dispose of the matter and to remedy or mitigate any pollution caused by its presence in the water.

(Notice to refrain from agricultural practices.)

63. (1) Where it appears to the Minister that any waters have been or are likely to be polluted as a result of an act or omission which is deemed to be consistent with good agricultural practice in accordance with section 54(b), the Minister may, in consultation with the Minister responsible for Agriculture, serve on the occupier of the land where that act or omission took place, a notice requesting him to stop or prevent acts or omissions of that kind.

(2) Any person who fails to comply with a notice under this section is guilty of an offence under this Act.

PART VIII GENERAL AND MISCELLANEOUS PROVISIONS

(Power of Minister to revoke licence.)

64. (1) The Minister may revoke the licence granted under section 5 on the last day of the first five years following any renewal of the licence; however, no purported revocation of the licence under this subsection shall be effective unless the Minister has given to the Company not less than twelve months previous notice in writing of such intended revocation.

(2) If pursuant to subsection (1) the Minister revokes the licence, the Government shall, upon the revocation of the licence, purchase from the respective registered holders thereof at the price and in the manner described in section 65, all shares and debentures issued by the Company which are then held otherwise than by or on behalf of the Government, any Statutory Corporation or any Company the entire issued ordinary share capital of which is for the time being in the beneficial ownership of the Government or of any such Statutory Corporation.

(purchase price to be paid by Government on revocation of licence.)

65. (1) The Government shall pay to the respective registered holders of all debentures issued by the Company, which the Government is obliged to purchase in accordance with the provisions of section 64, a purchase price equal to the amount of the principal money outstanding on the debentures held by them respectively at the date of the revocation of the licence together with all unpaid interest and other charges which have accrued thereunder up to such date.

(2) The Government shall pay to the respective registered holders of all preference shares issued by the Company which the Government is obliged to purchase in accordance with the aforesaid provisions, a purchase price equal to the amount paid up on the preference shares held by them respectively at the date of the revocation of the licence together with the amount of any premium due on the redemption thereof and together also with a sum of money equal to the aggregate of the arrears (if any) of any fixed cumulative dividend (if any, and whether earned or declared or not) on the preference shares held by them respectively and the proportion of the dividend on such shares (whether earned or declared or not) attributable to the proportion of the then current financial year of the Company which has expired at the date of the revocation of the licence.

(3) If pursuant to section 64 the Minister revokes the licence, on or prior to the last day of the first five years following any renewal of the licence, the Government shall pay to the registered holders of all ordinary shares in the capital of the Company, which the Government is obliged to purchase in accordance with the aforesaid provisions, a purchase price equal to that proportion of the aggregate of -

(a) the net value of the Company's assets at the date of the revocation of the licence, calculated in accordance with the provisions set out in Parts I and 11 of the Schedule; and

(Schedule.)

(b) a sum of money calculated in accordance with the provisions set out in Part III of the Schedule,

which the aggregate amount paid up on the ordinary shares being purchased from the registered holders thereof bears to the aggregate amount paid up on the whole of the Company's issued ordinary share capital at the date of the revocation of the licence; such purchase price to be divided among the registered holders in proportion to their holding of such shares.

(4) Any purchase price payable by the Government in accordance with the foregoing provisions of this Act for any shares or debentures of the Company shall be paid before the expiry of one year from the date of the revocation of the licence and any amount unpaid shall bear interest, such interest to be calculated from the date of revocation until payment at the rate of 8 percent per annum and to be payable half yearly.

(5) If the Minister serves upon the Company a valid notice revoking the licence, the Company shall not thereafter, except with the previous written consent of the Minister, issue any share or debenture.

(6) If any disagreement shall arise as to the correct amount of the purchase price to be paid by the Government to any shareholder or debenture holder of the Company in accordance with the foregoing provisions of this Act, the amount to be so paid to the shareholder or debenture holder in question shall be determined by a single arbitrator appointed in accordance with section 66.

(Appointment of arbitrator.)

66. On any reference to arbitration under section 65 an arbitrator from within the Commonwealth Caribbean shall be appointed by agreement between the Minister and the Company or, failing agreement within fourteen days after either party has given to the other party a written request to concur in the appointment of an arbitrator, the High Court may, on application by either party, appoint an arbitrator, who shall have the powers to act and make an award as if he had been appointed by consent of both parties.

(Arbitration proceedings. Ch. 4:50.)

67. (1) Save as otherwise provided in this Act and save where inconsistent with the provisions of this Act, the Arbitration Act shall apply to every reference to arbitration under this Act.

(2) Upon any reference to arbitration under section 65 the arbitrator may of his own motion and shall, if requested by either party or if so directed by the High Court, state any question of law arising in the course of the reference to the High Court in the form of a special case for the decision of the Court, and an appeal shall lie to the Court of Appeal from any such decision.

(Regulations, codes of workmanship.)

68. (1) The Minister may as he considers necessary after consultation with the Company make Regulations generally for the purpose of carrying this Act into effect; and without prejudice to the generality of the foregoing, the Minister may make Regulations for developing and prescribing codes of workmanship in respect of -

(a) any works of water supply, sewerage, waste disposal or waste treatment works to be constructed under this Act;

(b) any latrine, septic tank or private sewerage system;

(c) any plumbing or drainage relating to water supply, sewerage or drainage to be executed on any land.

(2) Regulations made under this Act may provide that the breach of any regulation therein constitutes an offence and may provide for penalties on summary conviction of a fine not exceeding one thousand dollars in respect of each offence, and in the case of a continuing offence a further fine of one hundred dollars for each day during which the offence continues after conviction therefor; and in default of payment thereof, imprisonment for a term not exceeding twelve months.

(Offences.)

69. (1) Except where otherwise stated in this Act, any person who is found guilty of an offence under this Act is liable on summary conviction to a fine of one thousand dollars and to imprisonment for a term of twelve months.

(2) In addition to the penalties specified in subsection (1), the Court may, in the event of a continuing offence, impose a further fine not exceeding one hundred dollars for each day during which the offence continues after conviction therefor.

(Offences in respect to water supply and sewerage.)

70. (1) Any person who wilfully or negligently -

(a) causes or suffers any pipe, valve, cock, cistern, bath, soil pan, water closet or other apparatus or receptacle belonging to or connected with the waterworks -

(i) to be out of repair; or

(ii) to be so used or contrived in such a way that the water supplied to him is or is likely to be wasted, misused, unduly consumed or contaminated;

(b) causes or suffers any pipe belonging to or connected with the pipes of the waterworks to be so used or contrived in such a way as to occasion or allow the return of foul air or other noxious or impure matter therein;

(c) removes or tampers with any gauge, meter, measuring instrument, level, mark or any other appliance forming part of the waterworks;

(d) damages any part of the waterworks, sewerage works or sewerage system; or

(e) commits any act which, by itself or with other acts, impedes or interrupts, or is calculated to impede or interrupt, the flow of water belonging to the water- works,

is guilty of an offence and on summary conviction liable for each offence to a fine of five hundred dollars or to imprisonment for six months.

(2) Any person who -

(a) violates any of the provisions of any Regulations or By-Laws that are saved under this Act;

(b) refuses or neglects to act in obedience to any such Regulations or By-Laws referred to in paragraph (a);

(c) resists, opposes or obstructs the lawful execution or implementation of any provision of this Act or Regulations made thereunder;

(d) washes clothes or any other thing, bathes, swims, waters or bathes any animal or spits in any source of water supply of the Company;

(e) urinates or defecates in or throws or deposits any waste or refuse in the surrounding area of any such water supply source;

(f) uses the said water supply or water system for any purpose that may jeopardise the public health or alter the chemical or bacteriological balance of the water,

is guilty of an offence and on summary conviction liable for each offence to a fine of five hundred dollars or to imprisonment for six months.

(3) In the event any damage should result to the waterworks, sewerage works or sewerage system from the commission of any of the offences mentioned in this section, the Magistrate may, in addition to any punishment he may inflict, order the offender to pay compensation to the Company.

(Act to prevail in case of conflict.)

71. Subject to sections 19 (2) and 20 (2) whenever the provisions of this Act or any Regulations made thereunder are in conflict or inconsistent with the provisions of any other law relating to the control of water

supply or the disposal and treatment of sewage, the provisions of this Act and the Regulations made thereunder shall prevail.

(Repeal and savings. 19 of 1986.)

***72.** (1) The repealed Act and all Regulations that continued in force under that Act, in so far as they are not inconsistent with this Act, shall continue in force until revoked by Regulations made under this Act.

(Vol. VI of the Rev. L of Dom. 1961 p. 1187.)

(2) The Roseau City Council Sewerage By-Law (No. 22) shall continue in force until revoked by Regulations made under this Act.

*See Note on Subsidiary Legislation at page 2.

(Section 65.)

SCHEDULE

PART I

The net value of the company's assets shall be deemed for the purpose of section 65 to equal the aggregate of -

(a) the amount of the Company's cash in hand or at the bank and the value in the open market of the Company's other current assets;

(b) the value in the open market of the Company's investments and of all land of whatever tenure of the Company as if such land were unencumbered with any building, plant, works, and fixtures erected thereon or affixed thereto; but the value of any land transferred by the Government free of all cost pursuant to section 8 shall be ignored for this purpose;

(c) an amount equal to the useful life value of each fixed asset of the Company (exclusive of investments and land but inclusive of buildings, plant, works and fixtures erected on or affixed to land, motor vehicles, furniture, office equipment, tools, workshop equipment and other movables), such useful life value being determined by dividing the estimated replacement cost on site of the fixed asset in question by the number of years comprised in the amortisation period shown in Part H of this Schedule opposite to the category of the asset in question and multiplying the same by the number of years of estimated useful life which remained in that asset at the date of revocation of the licence,

after deducting from such aggregate the amount of the Company's debts and other liabilities at such date (contingent liabilities and claims being assessed for this purpose in such manner as may be fair and reasonable) and the amount of all moneys paid up on such date on any preference shares of the Company and of any arrears on such date of any fixed cumulative dividend thereon.

PART II

Category of asset	Amortisation period
Concrete and steel buildings and civil engineering works	40 years
Buildings and other works appliances and of other materials	15 years
Pipelines and storage tanks	30 years
Meters and other appliances	5 years
Other fixed assets	such number of years as is fair and reasonable in relation to the fixed asset in question.

PART III

The sum of money referred to in section 65(3) shall be a sum equal to the aggregate amount of the Company's net trading profits (computed as hereinafter provided and as certified by the Company's auditors) during the five completed financial years of the Company next preceding the revocation of the licence. For this purpose the Company's net trading profits shall be computed before charging or crediting income tax or any similar tax based on income or profits or capital gains and before making any loan redemption provision or other appropriation of profits but after making all other deductions including payment of interest on indebtedness and reasonable provision for depreciation.

