



MONTSERRAT

CHAPTER 18.05

WATER AUTHORITY ACT and Subsidiary Legislation

Revised Edition

showing the law as at 1 January 2002

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

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CHAPTER 18.05

WATER AUTHORITY ACT

*(Acts 6 of 1972, 2 of 1975, 11 of 1985,
16 of 1985, 4 of 1991 and 14 of 1993)*

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A WATER AUTHORITY FOR MONTSEERRAT WITH THE DUTY OF PROVIDING A PORTABLE WATER SUPPLY FOR MONTSEERRAT AND WITH JURISDICTION IN MATTERS RELATING TO THE CONSERVATION AND PROPER USE OF WATER RESOURCES; AND FOR PURPOSES INCIDENTAL THERETO OR CONNECTED THEREWITH.

Commencement

[1 April 1972]

PART I

PRELIMINARY

Short title

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

Interpretation

2. In this Act, unless the context otherwise requires—
“**the Authority**” means the Water Authority established under section 3 of this Act;
“**building**” includes a part of a building if that part is separately occupied;
“**Chairman**” and “**Deputy Chairman**” mean respectively the Chairman and Deputy Chairman of the Authority and include any person for the time being performing the functions of the Chairman or Deputy Chairman as the case may be;
“**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;

“Manager” means the General Manager of the Authority appointed under section 14 of this Act; (*Amended by Act 4 of 1991*)

“Member of the Authority” includes the Chairman and the Deputy Chairman;

“meter” means any appliance used to measure, ascertain or regulate the amount of water taken or used from the waterworks by reason of any service, as well as any orifice, gauge or other appliance used in estimating the flow of water in, into or from any part of the waterworks;

“Minister” means the Minister of Government charged for the time being with the subject of water;

“perform” includes exercise;

“property” includes movable and immovable property;

“water-course” includes all lakes, ponds, springs, ditches, drains, rivers, catchments, streams, cuts, culverts, dykes, sluices, aqueducts, pipes, and passages through or along which water flows;

“water-source” includes all lakes, ponds, springs, wells, dams, reservoirs and catchments;

“waterworks” includes all lakes, reservoirs, wells, dams, springs, tanks, catchments, cisterns, tunnels, conduits, aqueducts, pipes, fountains, showers, valves, pumps, engines, culverts, and all machinery, lands, buildings, fixtures and appliances owned or used by the Authority for supplying water or for protecting sources of supply.

PART II

ESTABLISHMENT, CONSTITUTION AND FUNCTIONS OF THE AUTHORITY

Establishment and constitution of the Authority

3. (1) There shall be established for the purposes of this Act a body corporate to be called the Montserrat Water Authority.

(2) The Authority shall have perpetual succession and shall be entitled to hold and dispose of property, to make contracts, and to sue and be sued in its corporate name.

(3) The Authority shall have a common seal which shall be officially and judicially noticed, and such seal shall be authenticated by the signature of the Chairman and one other member of the Authority.

(4) Until a seal is provided in accordance with the provisions of subsection (3) of this section, a stamp bearing the words "Montserrat Water Authority" and authenticated as in the said subsection (3) provided, may be used in place of such seal.

(5) The seal of the Authority shall be kept in the custody of the Manager.

Membership of the Authority

4. (1) The Authority shall consist of not less than five and not more than seven members as the Governor in Council may from time to time determine.

(2) Members of the Authority shall be appointed by the Governor in Council taking into account the functions of the Authority and shall include two *ex officio* members of whom one shall be the Financial Secretary and one the Senior Medical Officer.

(3) The Governor in Council shall appoint a Chairman and a Deputy Chairman from among the members of the Authority.

(4) A member of the Authority other than an *ex officio* member, shall, subject to the provisions of subsections (6) and (7) of this section, hold office for such period not exceeding three years as the Governor in Council may direct, but any member of the Authority if qualified shall be eligible for re-appointment.

(5) The Governor in Council may appoint any qualified person to act temporarily in place of any member of the Authority, other than an *ex officio* member, in the case of the absence or inability to act of such member.

(6) Any member of the Authority, other than an *ex officio* member, may at any time resign his office by instrument in writing addressed to the Chairman who shall forthwith cause it to be forwarded to the Governor: Provided, however, that in the case of the Chairman who is not an *ex officio* member, any such resignation shall be addressed directly to the Governor.

(7) The Governor in Council may at any time revoke the appointment of any member of the Authority other than an *ex officio* member if he thinks it expedient so to do.

(8) The appointment of any member of the Authority and the termination of office of any person as a member, whether by death, resignation, revocation, effluxion of time or otherwise shall be notified in the *Gazette*.

(9) No elected member of the Legislative Council shall be eligible for appointment as a member of the Authority.

Nothing in this section shall be interpreted to prevent the Financial Secretary from deputing an officer in the Ministry of Finance to act in his stead and on his behalf at any meeting of the Authority.

(Amended by Acts 11 of 1985 and 14 of 1993)

Functions and powers of the Authority

5. (1) It shall be the function of the Authority to promote the conservation and proper use of the water resources of Montserrat and to provide and maintain an adequate supply of pure and wholesome water for public and private purposes in Montserrat.

(2) In particular, and without prejudice to the generality of subsection (1) of this section, it shall be the function of the Authority—

- (a)* to prepare and submit to the Governor in Council from time to time proposals for the establishment of an efficient, co-ordinated and economical water supply system capable of meeting the water needs throughout Montserrat;
- (b)* to prepare and submit for the approval of the Governor in Council 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)* to establish standards of construction and specifications for the waterworks;
- (d)* to maintain and operate water supply services provided by the Authority and maintain the waterworks in good condition and repair;
- (e)* to keep under constant review the sufficiency and wholesomeness of water supplies provided by it and the rates charged for such supplies, and to advise the Minister on matters relating to water supplies in Montserrat which may be referred to it by the Minister.

(3) Subject to the provisions of this Act the Authority shall have the power for the purpose of the discharge of its functions under this Act—

- (a)* to carry on or secure the carrying on of all activities the carrying on of which appears to the Authority to be requisite, advantageous or convenient for or in connection with the discharge of its said functions;
- (b)* with the approval of the Director of Public Works and subject to such conditions as he may prescribe, to open or break up any road, street or lane for the purpose of laying down, extending, inspecting, altering, renewing or repairing any waterworks;
- (c)* to do anything and to enter into any transaction of any nature whatsoever, whether or not involving expenditure,

borrowing, or the acquisition of any property or rights which in its opinion is calculated to facilitate the proper discharge of its functions or is incidental or conducive thereto.

Meetings and procedure

6. (1) The Authority shall meet at least once in every quarter and at such other times as may be necessary or expedient for the transaction of business.

(2) The Chairman may at any time call a special meeting of the Authority, and shall call a special meeting within seven days of a requisition for that purpose addressed to him by any two members of the Authority.

(3) The Chairman shall call a special meeting of the Authority if directed by the Governor or the Minister so to do.

(4) The Chairman, or in his absence the Deputy Chairman, shall preside at all meetings of the Authority.

(5) The Chairman, or in his absence the Deputy Chairman, and two other members of the Authority shall form a quorum.

(6) The decisions of the Authority shall be by a majority of votes, and in addition to an original vote, in any case in which the voting is equal, the Chairman or Deputy Chairman presiding at the meeting shall have a casting vote.

(7) Minutes in proper form shall be kept by the Authority and shall be confirmed by the Chairman, or Deputy Chairman as the case may be, as soon as practicable thereafter at a subsequent meeting.

(8) The Authority may co-opt any one or more persons to attend any particular meeting of the Authority for the purpose of assisting the Authority, but no such person shall have any right to vote.

(9) Subject to the provisions of this section the Authority shall have power to regulate its own proceedings.

Power to appoint committee

7. (1) The Authority may appoint a committee of the Authority to examine and report to it on any matter whatsoever arising out of or connected with any of its powers and duties under this Act.

(2) The Authority may, by resolution, reject the report of any such committee or adopt it either wholly or with such modifications, additions or adaptations as the Authority may think fit.

Declaration of interests of members of the Authority

8. (1) Any member of the Authority whose interests are likely to be affected whether directly or indirectly by a decision of the Authority on any matter whatsoever shall disclose the nature of his interests at the first

meeting of the Authority at which he is present after the relevant facts have come to his knowledge.

(2) The disclosure under subsection (1) of this section shall be recorded in the minutes of the Authority and after the disclosure, the member making it shall, unless the Authority otherwise directs, not be present at or take part in the deliberations or vote at any meeting of the Authority during the time when such matter is being decided by the Authority.

Protection of the Authority

9. The validity of any act done or proceedings taken under this Act shall not be questioned on the ground—

- (a) of the existence of any vacancy in the membership of or any defect in the constitution of the Authority; or
- (b) of the contravention by a member of the Authority of the provisions of section 8 of this Act, or of any omission, defect or irregularity not affecting the merits of the case.

Protection of members of the Authority

10. No personal liability shall attach to any member of the Authority in respect of anything done or suffered in good faith under the provisions of this Act, and any sum of money, damages or cost which may be recovered against any such member in respect of any act or thing done *bona fide* and for the purpose of carrying this Act into effect, shall be paid out of the funds and resources of the Authority.

Deficiency in supply of water

11. The Authority shall not be liable for any failure to supply water in accordance with the provisions of this Act or for any interruption in such supply or for any injury to the person or damage to property resulting from any such failure or interruption unless the failure or interruption is due to the wilful default of the Authority or of its servants or agents. In particular, and without prejudice to the generality of the foregoing, the Authority shall not be liable for any such failure or interruption due to an accident or any failure or breakdown in the waterworks or any strike, lockout, civil strife, Act of God, or any other cause outside the control of the Authority.

Execution and service of documents

12. (1) All deeds, instruments, contracts and other documents, other than those required by law to be under seal, shall be deemed to be duly executed or signed by or on behalf of the Authority, if they are signed by the Chairman or Manager and some other person duly authorised by the Authority in that behalf.

(2) Service upon the Authority of any notice, order or other document shall be executed by delivering the same or by sending it by registered post addressed to the Manager at the head of the Authority.

Remuneration of members of the Authority

13. The Authority shall pay to each of its members in respect of his office, such, if any, remuneration as the Governor in Council may determine. (*Amended by Act 14 of 1993*)

Appointment of Engineer Manager

14. (1) A General Manager shall be appointed by the Governor by instrument under his hand on the recommendation of the Authority: Provided that in the case of the first General Manager he shall be appointed by the Governor in his discretion.

(2) The General Manager shall be appointed for a period of three years upon such terms and conditions of service as may be decided by the Governor on the recommendation of the Authority and shall be eligible for re-appointment: Provided that in the case of the first General Manager he shall be appointed for such shorter period and upon such terms and conditions of service as the Governor may in his discretion decide.

(3) The General Manager shall be the chief executive officer of the Authority and shall be present at all meetings of the Authority unless he has obtained leave of absence from the Chairman or is incapacitated by illness or other cause from attending such meetings.

(4) The Governor may on the recommendation of the Authority by instrument under his hand appoint any suitably qualified person to act temporarily in place of the General Manager during the absence of the General Manager through illness or inability from whatsoever cause arising. (*Amended by Act 4 of 1991*)

Appointment of officers and servants

15. (1) The Authority may appoint and employ at such remuneration and on such terms and conditions as it thinks fit such officers, servants and agents as it may deem necessary for the proper carrying out of its functions under this Act: Provided that no salary in excess of \$6,000 per annum shall be assigned to a post without the prior approval of the Governor in Council. (*Amended by Act 14 of 1993*)

(2) The Authority shall within a period of three years after its establishment provide for the establishment and maintenance of a Pension Scheme or Provident Fund for the benefit of the officers and servants of the Authority.

(3) The Governor, acting in his discretion may approve the transfer on secondment of a public officer to the service of the Authority, and where such transfer on secondment is approved, the Authority shall pay to the Government of Montserrat such contribution as may be required by the

Government to be paid in respect of the pension and gratuity of the officer transferred.

Authority to conform with directions of the Governor in Council

16. In the exercise of its powers and the discharge of its functions under this Act, the Authority shall conform with any general or special directions given to it by the Governor in Council.

PART III

THE CONSERVATION OF WATER RESOURCES, ACQUISITION OF LAND AND WATER RIGHTS, AND CONSTRUCTION OF WORKS

Conservation and protection of water-course and water-source in certain areas

17. (1) Where the Governor in Council is satisfied that special measures for the conservation or protection of water in any area are necessary in the public interest, whether for the protection of public water supplies or for the protection of water supplies used for other purposes, he may make an Order to be published in the *Gazette* defining the area in question, and thereupon the provisions of this section shall apply to that area.

(2) An Order made under this section shall be laid before the Legislative Council at the first meeting of the Council next following the making of such Order and shall not have any force or effect until confirmed by resolution of the Legislative Council.

(3) In any area to which this section applies, no person shall—

- (a)* cut, fell or burn any tree or underwood whatsoever growing above any watercourse in such area, or within a radius of 300 yards of any such watercourse;
- (b)* cultivate land above any watercourse or within a radius of 300 yards of any such watercourse;
- (c)* drive or permit or suffer any animal to be driven to or to enter any water-course therein;
- (d)* bathe in any water-course therein;
- (e)* wash in or throw into or cause or suffer to be washed in or thrown into any water-course therein any animal, whether alive or dead, or any part of a dead animal;

- (f) put or throw or cause or suffer to be put or thrown into any water-course therein any rubbish, dirt, filth or any foul or offensive matter, whether solid or liquid;
- (g) wash or cleanse or cause or suffer to be washed or cleansed in any water-course therein any cloth, wool, leather or skin of any animal or any clothes;
- (h) cause or suffer the water from any sink, sewer, drain, steam engine or boiler, or any foul or filthy water being and lying upon any land or premises which are under his management or control or the control of his servants or agents, to run or flow into any water-course therein:

Provided that the Authority, or, with the agreement of the Authority, the Agricultural Department, may, subject to such conditions as the Authority may think fit, authorise in writing any person to do any of the acts prohibited by paragraphs (a) and (b) of this subsection.

(Amended by Act 16 of 1985)

(4) Subject to the provisions of this section, no person shall divert, obstruct or impound water in any water-course in an area to which this section applies unless he has obtained a licence so to do from the Minister:

Provided that this subsection shall not apply in relation to any water which is the subject of a written agreement between the Government of Montserrat and the person diverting, obstructing or impounding as aforesaid or which is being diverted, obstructed or impounded as aforesaid immediately before the 1st day of January, 1972; but it shall apply in relation to any such water which is in excess of the amount which is subject to any such agreement as aforesaid or which is in excess of the amount so diverted, obstructed or impounded immediately before the 1st day of January, 1972.

(5) Any person who contravenes any of the provisions of this section shall be guilty of an offence against this Act and shall be liable on summary conviction therefore to a fine not exceeding \$250 or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment, and in the case of a continuing offence such person shall be liable to a further penalty not exceeding \$10 a day for each day during which the offence continues.

Acquisition of land by the Authority

18. (1) With the approval of the Governor in Council the Authority may acquire land by agreement, whether by way of gift, purchase, lease or exchange, for the purpose of carrying out its functions under this Act.

(2) Where the Authority is unable to acquire by agreement and on reasonable terms any land which it considers it necessary to acquire for the purposes of this Act, the Authority shall report the fact to the Minister, and at the request of the Minister, the Governor in Council may, if he considers

it fit so to do, acquire such land compulsorily in accordance with the provisions of the Land Acquisition Act.

Acquisition of water rights

19. (1) The Authority may by agreement acquire rights to take water from any water-course or other source but no such agreement shall have effect until it has received the approval of the Governor in Council.

(2) The Governor in Council may on the application of the Authority by Order provide for the compulsory acquisition by the Authority of such rights to take water from any water-course as may be specified in the Order.

(3) Before making an Order under subsection (2) of this section the Governor in Council shall publish in the *Gazette* and in a newspaper circulating in Montserrat a notice—

- (a) stating the general effect of the Order;
- (b) stating that within a period of 28 days from the date of publication of the notice any person may by notice in writing to the Governor object to the making of the Order;
- (c) requiring all persons interested to state in writing within the said period the nature of their respective interests in the rights in respect of which the Order is proposed to be made, and the amount and full particulars of their claims to compensation in respect of such interests, showing how the amount claimed is calculated,

and no Order shall be made until the Governor in Council has given due consideration to such objections as may be received within the period specified in the notice.

(4) All claims relating to the payment of compensation for the compulsory acquisition of water rights shall, unless they are settled by agreement (which may include provision of a reasonable supply of compensatory water) be determined by a Board of Assessment appointed in accordance with the provisions of the Land Acquisition Act, and such Board shall hold an enquiry in such manner as it thinks fit and such Board shall decide as to the amount of compensation to be paid.

(5) An appeal shall lie against the decision of the Board of Assessment to the Court of Appeal.

Vesting of property in the Authority

20. All water-courses and waterworks vested in and under the control of the Governor by virtue of the provisions of the Interim Water Supply Act, or otherwise, shall after the commencement of this Act be transferred to and vest in the Authority; and all other assets and all liabilities and obligations of the Governor under the Interim Water Supply Act, shall also

be transferred and accrue to and devolve upon the Authority under such conditions as the Governor in Council may determine:

Provided, however, that all water service charges accruing and owing to the Government of Montserrat at the date of commencement of this Act shall remain the property of the Government and be payable to the Accountant General.

Execution of works not involving acquisition of land

21. (1) The Authority, or any person duly authorised in writing in that behalf by the Authority, may—

- (a) cause pipes and fittings to be laid and carried through, across, over or under any land for the purpose of supplying water:

Provided that the Authority shall first give notice in writing of its intentions to the owner or occupier of any private land subject to the execution of such works if such owner or occupier can be reasonably ascertained and found, or if he cannot be so ascertained and found, post up such notice conspicuously on the land in question; and if such owner or occupier shall within fourteen days from the service or posting up of such a notice give notice in writing to the Authority of his objection thereto, the matter shall be referred by the Authority to the Governor; and neither the Authority nor any such duly authorised person as aforesaid shall enter upon such private land if the Governor shall so direct within thirty days after having been notified by the Authority of any such objection as aforesaid;

- (b) maintain and keep in use all pipes and fittings transferred from the control and management of the Governor to the Authority;
- (c) alter, replace, repair or remove any such pipes and fittings as mentioned in paragraphs (a) and (b) of this subsection at all times when in the opinion of the Authority the same may be necessary or desirable.

(2) All such pipes and fittings as are referred to in subsection (1) of this section shall be and remain the property of the Authority and shall not be deemed to accrue to or become part of the land by reason of being affixed to the land.

(3) Subject to the provisions of subsection (1) of this section the Authority may, for the purpose of installing, altering, replacing, repairing or removing any pipes and fittings of the waterworks, enter upon any land and may—

- (a) clear such land;
- (b) dig the soil and remove the surface of such land;

- (c) temporarily close or obstruct the entry into or use of such land; and
- (d) generally do all acts and things reasonably necessary for such purpose:

Provided that the Authority shall be liable to pay reasonable compensation for any damage or injury done thereby to any building or growing crops on such land; and any dispute as to the amount of such compensation shall be settled by an arbitrator appointed by the Governor.

(4) For the avoidance of doubt it is hereby declared that no change in the ownership or occupation of any land in, under or over which any pipes and fittings of the Authority are installed shall affect the rights of the Authority in respect thereof or oblige the Authority to issue any further notice in relation thereto pursuant to this section.

PART IV

WATER SUPPLIES

Duty of Authority with respect to water supplies

22. (1) It shall be the duty of the Authority—

- (a) to take from time to time such steps as may be necessary for ascertaining the sufficiency and wholesomeness of water supplies within Montserrat;
- (b) to provide a supply of wholesome water in pipes to all localities in which there are adequate distribution facilities, so, however, that this paragraph shall not be deemed to require the Authority to do anything which is not practicable at a reasonable cost to the Authority.

(2) Where it is proposed to extend the water supply system into new areas, the water distribution facilities in such areas shall be installed at the expense of the owner or developer of the land in such areas and according to specifications approved by the Authority; and upon completion of such installations to the satisfaction of the Authority such distribution facilities shall become the property of the Authority who shall maintain and keep them in good order.

(3) Notwithstanding the provisions of subsection (2) of this section the Authority may by agreement enter into a cost sharing arrangement with any person in respect of extensions of the water distribution system.

(4) Any extension of the water distribution system under the provisions of subsection (2) of this section shall be deemed to be a water

supply scheme for the purposes of subsection (2) of section 5 of this Act, and shall be subject to the approval of the Governor in Council.

(5) Any question arising under paragraph (b) of subsection (1) of this section as to whether anything is or is not practicable at reasonable cost to the Authority shall be submitted by the Authority to the Governor in Council for his decision.

Authority to have exclusive right to sell water for domestic consumption

23 (1) The Authority shall have the sole and exclusive right to sell water for domestic consumption in Montserrat.

(2) If any person whose premises are supplied with water by the Authority sells to any other person any such water he shall be guilty of an offence against this Act.

Authority may supply water by measure

24. (1) The Authority may, when it thinks fit, supply water by meter and shall at all times keep all such meters and other instruments for measuring water in proper order for correctly registering the supply of water. The Authority shall, for the purposes aforesaid, have access to and be at liberty at all reasonable times to enter premises for the purpose of removing, testing, inspecting, repairing or replacing such meter or other instrument.

(2) Any person who obstructs the Authority or any other person duly authorised by the Authority in the exercise of its functions under this section shall be guilty of an offence against this Act and shall be liable on summary conviction therefore to a fine not exceeding \$100.

Meters etc. not to be subject to distress

25. The meters or other instruments and apparatus of the Authority shall not be subject to distress for rent of the premises where the same are used or for any other cause, not to be attached or taken in execution under the powers of any Court, or under any legal proceedings against or affecting the water consumer or the occupier of the premises or any other person in whose possession such meters or other instruments or apparatus may be.

Entry on premises generally

26. (1) The Authority or its agents or servants duly authorised in that behalf by the Authority may—

- (a) at any reasonable time between the hours of 8am and 6pm (or at other times with the consent of the occupier of the premises) enter any premises supplied with water by the Authority for the purpose of examining the pipes or other 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 other means of supply, or for the purpose of locking off the supply of water to such premises or restoring the supply of water to such premises;

- (b) enter or authorise any person to enter upon any land at all reasonable times and to remain thereon as long as may be necessary for the purpose of effectively doing any act or thing as may be reasonably necessary for the purpose of any survey or preliminary investigation, or that may be incidental to the exercise of any power or the performance of any duty of the Authority or for carrying into effect any of the provisions of this Act.

(2) Any person who assaults, hinders or obstructs any other person acting in the performance of his functions under subsection (1) of this section shall be guilty of an offence against this Act and shall be liable on summary conviction therefore to a fine not exceeding \$250 or to imprisonment for a term not exceeding three months.

Water rates and charges

27. (1) All rates and charges imposed by the Authority for water sold by the Authority in bulk or direct to consumers, and for the services rendered by the Authority, shall be so fixed that, taking one year with another, the revenue derived in any year by the Authority from such sales and services shall be sufficient to meet the Authority's expenses and other outgoings in that year.

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

(3) Where the rates, charges and fees prescribed pursuant to section 32 of this Act are inapplicable nothing in this section shall prevent the Authority with the consent of the Governor in Council from charging other rates, charges or fees by special agreement with the consumer or purchaser.

Rates and charges, how recoverable

28. All rates, charges and fees imposed or levied by the Authority under the provisions of this Act or of any regulations made thereunder may be recovered by civil process before a Magistrate.

Penalty for wilful injury or waste etc

29. If any person supplied with water by the Authority wilfully or by culpable negligence in any manner injures or causes or suffers any pipe, valve, cock, cistern, bath, soil-pan, water closet or other apparatus or receptacle to be injured, damaged or tampered with or to be out of repair or to be used in such a manner that in any such case the water so supplied to him is or is likely to be wasted, misused, unduly consumed or contaminated, or so as to occasion, or allow the return of foul air or any

noxious or impure water into any pipe belonging to or connected with the pipes of the waterworks, such person as aforesaid shall be guilty of an offence against this Act and shall be liable on summary conviction for any such offence to a fine not exceeding \$100.

Water supply may be cut off in certain cases

30. If any person who is supplied with water by the Authority wrongfully does or permits anything to be done in contravention of any of the provisions of this Act or of any regulations made thereunder, or wrongfully fails to do anything which under any of such provisions ought to be done for the prevention of the waste, misuse or contamination of water, the Authority may, without prejudice to any other remedy in respect of any such act, neglect or default, cut off or disconnect the supply of water to the premises of such person, and cease to supply water thereto, until such time as the Authority may be satisfied that the cause of any waste, misuse or contamination is removed or remedied.

Power to close taps

31. The Authority or any person duly authorised in that behalf by the Authority may at any time close any tap which is left running or is otherwise in such a condition as to cause the waste or misuse of water.

Power to make regulations

32. The Authority may, with the approval of the Governor in Council, make regulations generally for the better carrying into effect of the provisions of this Act and, without prejudice to the generality of the powers hereby conferred, may make regulations—

- (a) regulating—
 - (i) the supply of water for domestic and non-domestic purposes;
 - (ii) the supply of water to ships;
 - (iii) the supply of water by meter;
- (b) with respect to the manner of laying house services and the nature and quality of the meters and other appliances and apparatus to be used;
- (c) prescribing the rates and charges to be imposed in respect of water supply services provided by the Authority;
- (d) prescribing the areas in which such rates and charges are to be imposed;
- (e) prescribing the fees payable in respect of any other services properly rendered to or on account of consumers;
- (f) prescribing the forms of applications for the supply of water to consumers, the manner of effecting such supply, and the

- incidence of the charges or fees in respect of the cost of connecting or re-connecting the consumer's premises with the mains;
- (g) 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;
 - (h) providing for the recovery of rates, charges and fees payable by consumers;
 - (i) providing for the prevention of waste, undue consumption, misuse or contamination of water supplied by the Authority;
 - (j) prescribing anything required by this Act to be prescribed.

Offences in relation to the waterworks

33. Any person who—

- (a) bathes in any part of the waterworks; or
- (b) drives or permits or suffers any animal to be driven into or to enter the waterworks; or
- (c) washes in or throws into or causes or suffers to be washed in or thrown into the waterworks any animal; or
- (d) washes in or throws into or causes or suffers to be washed in or thrown into the waterworks—any dead animal or any part of a dead animal; or
- (e) puts or throws or causes or suffers to be put or thrown into the waterworks any rubbish, dirt, filth or other offensive matter whether solid or liquid; or
- (f) washes or cleanses or causes or suffers to be washed or cleansed in the waterworks any cloth, wool, or leather or the skin of any animal or any clothes; or
- (g) causes or suffers the water from any sink, sewer, drain, boiler, steam engine, or other engine or any foul or filthy water being and lying upon any land or premises which are under his management or control or under the management or control of his servants or agents, to run or flow into the waterworks; or
- (h) constructs, alters or extends the water service on his premises, or connects any tap on his premises to the distributory pipes of the waterworks, or connects or permits to be connected any pipe on his premises to any pipe on the

premises of any other person, in any of the above cases without the permission of the Authority; or

- (i) negligently or improperly moves or injures any main or other pipe of the waterworks or obstructs the same; or
- (j) does or commits any other act or thing whereby any water flowing to or from the waterworks is fouled or polluted or the flow thereof impeded or interrupted, or the water is improperly abstracted or wasted; or
- (k) bathes or washes at any public stand pipe; or
- (l) does or wilfully or knowingly omits any act or thing the wilful or knowing omission of which is, by regulations of the Authority, declared to be an offence,

shall be guilty of an offence against this Act and shall be liable on summary conviction therefor to a fine not exceeding \$250 or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment, and in any case in which the offence is a continuous one, to a further penalty of \$10 for every day during which the offence continues.

PART V

FINANCIAL PROVISIONS

Funds and resources of the Authority

34. The funds and resources of the Authority shall consist of—

- (a) such sums as may from time to time be placed at its disposal by the Legislative Council;
- (b) such sums as may be paid to the Authority in respect of water supply services and other services supplied by the Authority;
- (c) such sums as may be borrowed by the Authority for the purpose of meeting any of its obligations or discharging any of its functions;
- (d) such other sums from any other source as may be granted, loaned, paid, allocated to or vested in the Authority in respect of any matter incidental to its powers and duties.

Power to borrow or raise capital

35. (1) The Authority may, subject to the approval of the Governor in Council, borrow, secure or raise money for the purpose of meeting any of its obligations or carrying out any of its functions under this Act.

(2) With the approval of the Legislative Council, the Governor may guarantee, in such manner and upon such conditions as he may think fit, the repayments of the principal and interest of any authorised borrowings by the Authority.

(3) Where the Governor is satisfied that there has been default in the repayment of any principal monies or interest guaranteed under this section, he shall direct the repayment out of the General Revenue of Montserrat of the amounts in respect of which there has been such default.

(4) The Authority shall make to the Accountant General, at such times and in such manner as the Governor may direct, payments of all or part of the amounts as may be so directed in or towards the repayment of sums issued in fulfilment of any guarantee given under this section: Provided that only with the prior approval of the Legislative Council may the Authority be permitted by the Governor to make payment of a sum less than the whole amount issued in fulfilment of such guarantee.

(5) The Authority may, with the approval of the Governor, borrow by way of bank overdraft such sums as it may from time to time require for the purpose of meeting its obligations.

Application of the funds and resources of the Authority

36. The funds and resources of the Authority shall be applied towards—

- (a) the purchase or acquisition of any property or rights necessary for the proper discharge of its functions under this Act;
- (b) the purchase of vehicles, plant, equipment, stores and any other materials, the construction of buildings, and the carrying out of any other works in the discharge of its said functions;
- (c) in defraying the following charges—
 - (i) the remuneration and allowances of members of the Authority;
 - (ii) the salaries, remuneration and other allowances of the officers, servants and agents of the Authority, and the payments of contributions towards the maintenance of the Pensions Scheme or social security authorised by this Act;
 - (iii) establishment and working expenses and expenses of upkeep and maintenance of the waterworks and other property of the Authority; and
 - (iv) the repayment of loans and advances to the Authority and interest thereon;
- (d) providing such sums as the Authority may deem appropriate to set aside in respect of depreciation of its property;

- (e) any other expenditure authorised by the Authority in the exercise of its functions under this Act.

Cash deposits and payments

37. (1) All sums payable to the Authority shall be paid into a bank or banks approved by the Governor in Council except such sums as any officer of the Authority may be authorised by the rules of the Authority to retain in his hands to meet petty disbursements or immediate payments.

(2) All payments out of the funds of the Authority, except petty disbursements not exceeding such sums as may be fixed by rules of the Authority, shall be made by any officer authorised by the Authority in accordance with such rules.

(3) Cheques against any banking account required to be kept and bills of exchange or orders for the payment of money shall be signed by the officer authorized by the Authority in accordance with the rules of the Authority. In the case however of payments in excess of \$1,000, such cheques, bills of exchange or orders shall be countersigned by the Chairman or other member of the Authority appointed by resolution of the Authority for the purpose; and a copy of any such resolution shall be certified by the Chairman and forwarded to the bank concerned. (*Substituted by Act 2 of 1975*)

Authority may make rules

38. For the purpose of regulating and controlling its financial operations, the Authority may, by resolution, make rules in respect of the following matters—

- (a) the manner in which and the officers by whom payments are to be made and to be approved;
- (b) the bank or banks into which the monies of the Authority are to be paid, the title of any account with any such bank and the transfer of money from one account to another;
- (c) the sum to be retained by the authorised officer to meet petty disbursements and immediate payments, and the maximum sum which may be so disbursed for any one payment;
- (d) the method to be adopted in making payments out of the funds of the Authority;
- (e) generally as to all matters and things necessary for the proper keeping and control of the accounts and finances of the Authority.

Accounts and audit

39. (1) The Authority shall prepare and submit to the Governor in Council for his approval annual estimates of income and expenditure and shall keep accounts of its transactions to the satisfaction of the Minister,

and the accounts shall be audited annually by an Auditor who shall be appointed each year by the Authority with the approval of the Governor in Council.

(2) The members, officers and servants of the Authority shall grant to the Auditor appointed under subsection (1) of this section access to all books, documents, stores, cash and securities of the Authority and shall give to him on request all such information as may be within their knowledge in relation to the operations of the Authority.

(3) Notwithstanding anything contained in subsection (1) of this section, the Governor may in his discretion at any time require the Government Auditor to examine and report on the accounts of the Authority, and the Authority shall provide the Government Auditor with all necessary and appropriate facilities for such examination.

(4) As soon as the accounts have been finally audited the Manager shall send to the Minister a copy thereof together with a copy of any report thereon by the Auditor.

(5) The Authority may with the prior approval of the Governor in Council write off bad debts.

Reports

40. (1) The Authority shall, not later than six months after the end of each calendar year submit to the Minister—

- (a) a report dealing generally with the operations of the Authority during the preceding calendar year;
- (b) a statement of the accounts of the Authority audited in accordance with the provisions of section 39 of this Act.

(2) A copy of the report together with a copy of the audited statement of accounts and a copy of the Auditor's report shall be laid before the Legislative Council by the Minister, who shall cause a copy of the audited statement of accounts to be published in the *Gazette*.

(Amended by Act 2 of 1975)

PART VI

MISCELLANEOUS AND GENERAL

General penalty

41. Any person guilty of an offence against this Act for which no special penalty is provided by this Act shall be liable on summary conviction therefor to a fine not exceeding \$100.

Offences in relation to statements, accounts, etc.

42. Any member or officer of the Authority, or any Auditor, knowing it to be false in any material particular—

- (a) verifies any statement, account or report of the Authority; or
- (b) causes to be delivered or transmitted such statement, account or report,

shall be guilty of an offence against this Act and shall be liable on indictment therefor to imprisonment for a term not exceeding five years.

Minutes receivable in evidence

43. Any minutes made of meetings of the Authority shall, if purporting to be signed by the Chairman or Deputy Chairman, be receivable in evidence in all legal proceedings without further proof and every meeting of the Authority in respect of the proceedings of which minutes have been so made shall be deemed to have been duly convened and held and all members thereat to have been duly qualified to act.

Exemption from stamp duties and other charges

44. Notwithstanding the provisions of any law providing for the registration of documents or the payment of stamp duties, the Authority shall be exempt from the payment of all registration fees, filing fees, stamp duties and all other fees or impositions including search and inspection fees.

Exemption from Income Tax

45. Notwithstanding anything contained in the Income Tax Act, the Authority shall be wholly exempt from the payment of Income Tax.

Exemption from import duties, etc.

46. All material, equipment, vehicles, stationery and stores required to be purchased by the Authority for the purpose of carrying out its functions under the provisions of this Act and which are imported by the Authority, or by an agent acting on behalf of the Authority for the said purpose, shall be exempt from the payment of import duty and consumption tax.

Exemption from property tax

47. Notwithstanding the provisions of the Property Tax Act, the Authority shall not be liable to the payment of property tax on any property owned by the Authority.
