

CHAPTER 272

MAHAWELI AUTHORITY OF SRI LANKA

Act No. 23 of 1979. AN ACT TO ESTABLISH THE MAHAWELI AUTHORITY OF SRI LANKA WHICH SHALL BE THE AUTHORITY RESPONSIBLE FOR THE IMPLEMENTATION OF THE MAHAWELI GANGA DEVELOPMENT SCHEME, TO PROVIDE FOR THE ESTABLISHMENT OF CORPORATIONS TO ASSIST IN SUCH IMPLEMENTATION, AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[19th April, 1979.]

Short title. 1. This Act may be cited as the Mahaweli Authority of Sri Lanka Act. approved but without prejudice to anything previously done thereunder.

ESTABLISHMENT AND CONSTITUTION OF AUTHORITY

Establishment of the Mahaweli Authority. 2. (1) With effect from such date* as may be determined by the Minister by Notification published in the Gazette, there shall be established an Authority called the Mahaweli Authority of Sri Lanka (hereinafter referred to as the " Authority ").

(3) Nothing in the preceding subsections shall be deemed to preclude the Authority from maintaining any office or stores outside any Special Area or executing outside any Special Area any such work as may be necessary for the discharge of its functions under this Act.

(2) The Authority shall, by the name assigned to it by subsection (1), be a body corporate having perpetual succession and a common seal and may sue and be sued in its corporate name, and may perform such acts as bodies corporate may by law perform.

4. The Authority shall consist of five Directors of whom—

(a) three Directors shall be appointed by the Minister, with the approval of the President; and

(b) two ex officio Directors, namely—

Special Area of Authority. 3. (1) The Minister may, with the approval of the President from time to time, by Order published in the Gazette declare any area which in the opinion of the Minister can be developed with the water resources of the Mahaweli Ganga or of any major river to be a special area (hereinafter referred to as " Special Area ") in or in relation to which the Authority may, subject to the other provisions of this Act, exercise, perform and discharge all or any of its powers, duties and functions.

(i) the Secretary to the Ministry charged with the subject of Finance; and

(ii) the Secretary to the Ministry charged with the administration of this Act.

(2) Every Order shall as soon as it is convenient after its publication in the Gazette be brought before Parliament for approval. Any Order which is not so approved shall be deemed to be rescinded from the date on which it is not so

5. (1) The Minister may, with the approval of the President, appoint one of the Directors to be the Director-General of the Authority. Director-General of the Authority.

(2) The Director-General shall be the chief executive officer of the Authority.

(3) The Director-General shall preside at all meetings of the Authority and in his absence any Director elected by the Directors shall preside at such meeting.

* 19th April, 1979—See Gazette No. 35 of 1979.05.04.

(4) Where the Director-General is temporarily unable to perform the duties of his office on account of ill health, absence from Sri Lanka or any other cause, the Minister may appoint any Director to act in place of such Director-General.

Term of office of Directors.

6. (1) Every Director shall hold office for a period of five years from the date of his appointment, unless he earlier vacates office by death, resignation or removal.

(2) Any Director may resign his office by written communication addressed to the Minister.

(3) The Minister may, if he thinks it expedient to do so, by Order published in the Gazette, remove, with the approval of the President, any appointed Director of the Authority from office without reason stated.

(4) A Director in respect of whom an Order under subsection (3) is made by the Minister shall vacate his office on the date of the publication of such Order in the Gazette or on such other date as may be specified in such Order.

(5) A Director who has been removed from office shall not be eligible for re-appointment as a Director of the Authority or to serve the Authority in any other capacity.

(6) Upon the vacation of office by any Director the Minister may appoint any person to fill such vacancy and such person shall hold office for the unexpired period of the term of office of the Director whom he succeeds.

(7) Where any Director is temporarily unable to perform the duties of his office on account of ill health, absence from Sri Lanka or any other cause, the Minister may appoint any person to act in place of such Director.

Disqualification for being appointed as Directors.

7. A person shall be disqualified from being appointed or from continuing as a Director if he—

(a) is a Member of Parliament or a member of a local authority; or

(b) is under any law in force in Sri Lanka or in any other country found or declared to be of unsound mind ; or

(c) is a person who, having been declared an insolvent or a bankrupt under any law in Sri Lanka or in any other country, is an undischarged insolvent or bankrupt; or

(d) is serving or has served a sentence of imprisonment imposed by any court in Sri Lanka or in any other country.

8. No act or proceeding of the Authority shall be invalid by reason only of any vacancy among its Directors or any defect in the appointment of any of its Directors.

Vacancy among directors not to invalidate acts and proceedings.

9. The Directors of the Authority shall be remunerated at such rates and in such manner and shall be subject to such terms and conditions of service as may from time to time be determined by the Minister.

Remuneration and terms and conditions of service of Directors.

10. (1) Subject to the other provisions of this Act, the Authority may regulate its procedure in regard to the meetings of the Authority and the transaction of business at such meetings.

Meetings and quorum at meetings of the Authority.

(2) The quorum for a meeting of the Authority shall, unless the Authority otherwise determines, be three members.

11. (1) The seal of the Authority shall be in the custody of such person as the Authority may decide from time to time.

Seal of the Authority.

(2) The seal of the Authority may be altered in such manner as may be determined by the Authority.

(3) The seal of the Authority shall not be affixed to any instrument or document except in the presence of the Director-General of the Authority, and one other Director, both of whom shall sign the instrument or document in token of their presence:

Provided that where the Director-General is unable to be present at the time when the seal of the Authority is affixed to any instrument or document, any other Director

authorized in writing by the Director-General in that behalf, shall be competent to sign such instrument or document in accordance with the preceding provisions of this subsection.

(4) The Authority shall maintain a register of the instruments or documents to which the seal of the Authority is affixed.

POWERS AND FUNCTIONS

Functions of the Authority.

12. The functions of the Authority in, or in relation to, any Special Area shall be—

(a) to plan and implement the Mahaweli Ganga Development Scheme including the construction and operation of reservoirs, irrigation distribution system and installations for the generation and supply of electrical energy:

Provided, however, that the function relating to the distribution of electrical energy may be discharged by any authority competent to do so under any other written law;

(b) to foster and secure the full and integrated development of any Special Area;

(c) to optimise agricultural productivity and employment potential and to generate and secure economic and agricultural development within any Special Area;

(d) to conserve and maintain the physical environment within any Special Area;

(e) to further the general welfare and cultural progress of the community within any Special Area and to administer the affairs of such area ;

(f) to promote and secure the participation of private capital, both internal and external, in the economic and agricultural development of any Special Area; and

(g) to promote and secure the co-operation of Government departments. State institutions, local

authorities, public corporations and other persons, whether private or public, in the planning and implementation of the Mahaweli Ganga Development Scheme and in the development of any Special Area.

13. Notwithstanding the provisions of any other law and without prejudice to the generality of the powers conferred on the Authority by this Act, the Authority shall in or in relation to any Special Area have the power—

Powers of the Authority.

(1) to construct, maintain and operate such dams, channels, drainage systems, and other irrigation works and structures for the purpose of achieving its objects;

(2) to construct such hydro-power installations as may be necessary for the purpose of the generation and supply of electrical energy:

Provided, however, that the function relating to the distribution of electrical energy may be discharged by any authority competent to do so under any other written law;

(3) to take such measures as may be necessary for water-shed management and control of soil erosion;

(4) to promote, assist in, and secure the settlement of persons on lands, farms and properties in any special area and to make, advance to and pay for or contribute to the expenses of, and otherwise assist persons settling, farming or otherwise developing any such lands, farms and properties or are desirous of so doing and to take all such steps as are necessary or are connected therewith;

(5) to manage farms and to engage in farming, agricultural and horticultural activities of every kind;

(6) to manage, improve, farm, cultivate, maintain, lease, purchase, sell or otherwise deal with all or any part of lands;

- (7) to provide advisory and farmer training services to improve cultivation techniques, water management, soil management and the preservation of the physical environment;
- (8) to assist in the implementation of agricultural plans formulated by family communities;
- (9) to manage and operate a scheme of supervised credit to farmers;
- (10) to provide agricultural inputs such as seed materials, fertilizers, agro-chemicals, power, agricultural machinery and equipment to farmers and persons;
- (11) to carry out research relating to the development of agriculture and agro-based or related industries ;
- (12) to promote, undertake and participate in agro-based or related industrial or commercial enterprises;
- (13) to recover cesses on farm and other produce and to levy a charge or fee for the supply of water and for any service rendered by the Authority;
- (14) to provide marketing services for the purchase, storage, processing and sale of farm and other produce;
- (15) to manufacture, buy, sell and generally deal in any plant, machinery, tools, goods, or things of any description;
- (16) to purchase or otherwise acquire, erect, maintain, reconstruct and adapt any offices, workshops, plant, machinery and other things ;
- (17) to import, export, buy, sell and otherwise deal in goods, produce, articles or merchandise;
- (18) to acquire by subscription, purchase or otherwise and to accept and take, hold and sell, shares or stock in any company, society or undertaking, such as may be likely to promote or advance the objects of the Authority;
- (19) to accept stocks or shares in or debentures, mortgage debentures or other securities of any company in payment or part payment for any services rendered or for. any sale made to or debt owing from any such company;
- (20) to promote, invest and participate in subsidiary, companies which have a principal place of business ;
- (21) with the concurrence of the Minister in charge of the subject of Finance, to borrow, raise money or secure obligations from sources, either in Sri Lanka or abroad, by the issue of debentures, debenture stock, bonds, mortgages, or any other securities or without any security, and upon such terms as to priority or otherwise as the Authority may determine;
- (22) to receive money on deposit with or without allowance of interest thereon;
- (23) to advance or lend money upon such security as may be adequate or without taking any security therefor;
- (24) to invest the monies of the Authority in such manner as may from time to time be determined by the Authority;
- (25) to draw, accept and make, and to endorse, discount and negotiate bills of exchange and promissory notes and other negotiable instruments;
- (26) to issue or guarantee the issue of or the payment of interest on shares, debentures, debenture stock or other securities or obligations of any company or association and to pay or provide for brokerage, commission and underwriting in respect of any such issue ;

- (27) to act as agents for any Government or other authority and for private or public bodies and other persons ;
- (28) to undertake promotional and advertising activities connected with the objects of the Authority;
- (29) to promote, organize and manage all kinds of sports recreations and entertainments and to provide facilities for recreation and other leisure-time occupation in any Special Area;
- (30) to provide for the relief of poverty suffering and distress among persons within any Special Area;
- (31) to subscribe or contribute to any charitable, benevolent or useful object of a public character within any Special Area;
- (32) to appoint such employees and agents, as are necessary for carrying out the functions of the Authority ;
- (33) to provide for the welfare of persons in the employment of the Authority or formerly in the employment of the Authority and the wives, widows and families of such persons, by grants of money, pensions or other payments and to form, subscribe to or otherwise aid benevolent, religious, scientific or national institutions in any Special Area;
- (34) to take all such steps as are necessary for the general welfare of the community in any Special Area;
- (35) to exercise any of the powers of the Authority whether as agents, trustees or otherwise and whether alone or in conjunction with others; and
- (36) to do all such other acts and things as are incidental to or consequential upon or connected with the exercise, performance and discharge of the powers, duties and functions of the Authority.
- 14.** (1) The Authority may establish its own departments or agencies for the purpose of any work involved in the discharge of its functions. Departments and agencies of the Authority.
- (2) The Authority may make arrangements or contracts with Government departments, local authorities, public corporations and other bodies whether private or public for the purpose of carrying out its functions.
- 15.** The Authority may in writing under its seal empower any person, either generally or in respect of any specific matter, to act for and on behalf of the Authority in any place outside Sri Lanka. Empowering of persons to act for Authority outside Sri Lanka.
- 16.** (1) The Authority may, subject to such conditions as may be specified in writing, delegate to any Director or to any head of any department of the Authority, any power, duty or function conferred or imposed on or assigned to the Authority. Delegation of powers, &c., of Authority.
- (2) Notwithstanding any such delegation, the Authority may exercise, perform or discharge any such power, duty or function.
- 17.** (1) There may be appointed to the staff of the Authority such employees as the Authority may deem necessary. Staff of the Authority.
- (2) The Authority may appoint, dismiss and exercise disciplinary control over the staff of the Authority and fix the salary, wages or other remuneration of such staff and determine the terms and conditions of service of such staff.
- 18.** (1) At the request of the Authority any public officer may with the consent of that officer and the consent of the person who for the time being has the power to appoint such officer be temporarily appointed to the staff of the Authority for such period as may be determined by such Authority with like consent or be permanently appointed to such staff. Appointment of public officers to the Authority.
- (2) (a) Where a public officer is appointed temporarily to the staff of the Authority the provisions of subsections (3) and (5) of section 26 of the State Industrial Corporations Act other than paragraph (a) of subsection (3) of section 26 shall, *mutatis mutandis*, apply to and in relation to such officer.

(b) Where an officer is permanently appointed to the staff of the Authority the provisions of subsections (4) and (5) of section 26 of that Act shall, *mutatis mutandis*, apply to and in relation to such officer.

Authority to ensure that financial assistance given for any purpose is utilized for same.

19. The Authority shall take all such measures as may be necessary to ensure that any financial assistance rendered by the Authority to any agricultural, industrial or commercial enterprise is utilized for the purpose for which it is given.

Authority not to transact business with enterprise in which a director has interest unless approved by the Minister.

20. The Authority shall not make an investment in or otherwise transact business with an enterprise to which a director of the Authority is a partner, director or shareholder or is in any other way directly or indirectly interested, unless the transaction is approved by the Minister.

Special powers of Authority in respect of certain Departments and Corporations.

21. (1) Notwithstanding the provisions of any other law—

- (a) where the Authority considers it necessary for the purposes of this Act, the Authority may in or in relation to any Special Area give special or general directions to any of the Departments and Corporations specified in Schedule A hereto requiring any such Department or Corporation to perform such functions or duties as the Authority may determine; and
- (b) it shall be lawful for any such Department or Corporation to whom any such direction is given, to comply with such direction ; and
- (c) any such Department or Corporation to whom any such direction is given shall comply with such direction; and
- (d) any such Department or Corporation to whom any such direction is given shall be subject to the supervision and control of the Authority in respect of all matters connected with such direction.

(2) Where he considers it expedient to do so for the efficient discharge of the functions of the Authority, the Minister may, with the

approval of the President, by Order published in the Gazette amend, alter or vary Schedule A hereto.

22. (1) The written laws for the time being specified in Schedule B hereto shall have effect in every Special Area subject to the modification that it shall be lawful for the Authority to exercise and discharge in such area any of the powers or functions vested by any such written law in any authority, officer or person in like manner as though the reference in any such written law to the authority, officer or person empowered to exercise or discharge such powers or functions included a reference to the Authority.

Special powers of Authority in Special Area.

(2) No authority, officer or person in which or whom any power or function is vested by any written law for the time being specified in Schedule B hereto shall, in relation to a Special Area, exercise or discharge any such power or function except for the purpose of executing or carrying out any arrangement or contract made by the Authority under section 14.

(3) Any power or function which the Authority is authorized by subsection (1) to exercise or discharge, may be exercised or discharged on behalf of the Authority by any director of the Authority or by any employee of the Authority as is authorized in that behalf by the Authority.

(4) Where he considers it expedient to do so for the efficient discharge of the functions of the Authority, the Minister may, with the concurrence of the Minister concerned and the approval of the President, by Order published in the Gazette amend, alter or vary Schedule B hereto.

23. (1) Where any land or any interest in any land in any Special Area is required by the Authority for any of its purposes, that land or interest may be acquired under the Land Acquisition Act by the Government for the Authority, and the provisions of that Act shall, save as otherwise provided in subsection (2), apply for the purposes of the acquisition of that land or interest.

Compulsory acquisition of land in any Special Area for the Authority.

(2) In any case where any land or any interest in any land in any Special Area is to be acquired under the Land Acquisition Act for any purpose of the Authority and public notice of the intention to acquire that land or interest is published as required by that Act at any time within the period of three years commencing on the date of the publication in the Gazette under section 3 (1) of the Order declaring such Special Area, the following provisions shall apply for the purpose of determining the amount of compensation to be paid in respect of that land or interest, notwithstanding anything to the contrary in that Act:—

(a) the market-value of the land shall be deemed to be the market value the land would have had on the date of such Order if it then was in the same condition as it is at the time of acquisition, increased by a reasonable amount on account of bona fide improvements, if any, effected to such land after such date;

(b) in ascertaining the market value of the land at the date of such Order no account shall be taken of any benefit or increase in value which may have accrued, or any expectation of benefit or increase in value likely to accrue, directly or indirectly, from any work of development or other operation of the Authority in pursuance of this Act.

Possession of land in any Special Area otherwise than under the Land Acquisition Act.

24. (1) The Authority may, by notice published and displayed in accordance with the provisions of subsection (2), require every person who claims any right, title or interest to or in any land situated in such part of a Special Area as is described in the notice to prefer his claim in writing to the Authority within such time as may be specified in the notice.

(2) The notice referred to in subsection (1) shall be published in the Gazette and in at least one newspaper in the Sinhala language and one newspaper in the Tamil language and shall be displayed, in accordance with directions of the Authority, at conspicuous places in such part of a Special Area as is described in the notice.

(3) Where the Authority requires for any of its purposes any land situated in such part of a Special Area as is described in a notice published and displayed under the preceding provisions of this section and where no claim of any right, title or interest to or in that land has been made to the Authority as required by that notice or all the claims made in respect of the land are, after due investigation, considered by the Authority to be invalid, the Authority may with the approval of the Minister, take possession of that land and cause any work to be done thereon, notwithstanding that no proceedings under the Land Acquisition Act have been taken in respect of that land.

(4) Any person authorized in writing in that behalf by the Authority may, for and on behalf of the Authority take possession of any land referred to in subsection (3).

(5) Where any person who is authorized in writing by the Authority to take possession of any land referred to in subsection (3) is unable to take possession of that land because of any obstruction or resistance which has been offered, he shall, on his making an application in that behalf to the Magistrate's Court having jurisdiction where that land is situated, be entitled to an order of that court directing the Fiscal to deliver possession of that land to him for and on behalf of the Authority.

(6) Where an order under subsection (5) is issued to the Fiscal by a Magistrate's Court, he shall forthwith execute that order and in writing report to that court the manner in which that order is executed.

(7) For the purpose of executing an order issued by a Magistrate's Court under subsection (5), the Fiscal or any person acting under his direction may use such force as may be necessary to enter the land to which that order relates and to eject any person offering obstruction or resistance and to deliver possession of that land to the person who is duly authorized to take such possession for and on behalf of the Authority.

25. (1) Any land of which possession is taken by the Authority under section 24 shall, with effect from the date of

Effect of possession under section 24.

Cap. 272] MAHAWELI AUTHORITY OF SRI LANKA

commencement of such possession, vest absolutely in the Authority free from all encumbrances.

(2) No person claiming any right, title or interest in any land of which possession has been taken by the Authority under section 24 shall, save as provided in subsection (3) of this section, be entitled to institute any suit or other legal proceeding against the Authority in respect of that land, or of taking possession thereof by the Authority or of the doing of any work thereon by or under the Authority.

(3) Any person who would but for the provisions of subsection (1) have any right, title or interest to or in any land of which possession has been taken by the Authority under section 24 may institute in a court of competent jurisdiction an action against the Authority for a declaration of such right, title or interest and for obtaining compensation from the Authority in respect of that land.

(4) The amount of compensation which is to be awarded to any person in an action under subsection (3) shall, save as otherwise provided in subsection (5), be determined on the basis on which compensation would be determined under the Land Acquisition Act if the land in respect of which compensation is to be awarded were acquired under that Act.

(5) Where compensation is to be awarded to any person in an action under subsection (3) in respect of a land of which possession has been taken by the Authority at any time within the period of three years commencing on the date of the Order made under section 3 (1) in respect of any Special Area within which such land is situated, the provisions of paragraphs (a) and (b) of subsection (2) of section 23 shall apply for the purpose of determining the amount of such compensation.

FINANCE

26. There shall be a Fund established for the general financial purpose of the Authority. There shall be paid into the Fund—

- (a) all such sums of money as may be voted from time to time by

Parliament for the use of the Authority;

- (b) all rates, taxes, duties, fees, charges and penalties levied by the Authority under the regulations or rules made or deemed to be made under the provisions of this Act or in the exercise of any powers conferred by or under this Act;
- (c) all revenue derived by the Authority from any property vested in or administered by the Authority ;
- (d) all revenue derived by the Authority for services provided by the Authority;
- (e) all donations or grants made to the Authority; and
- (f) all sums accruing to the credit of the Authority.

27. (1) The Authority may utilize the funds of the Authority for the purpose of defraying any expenditure incurred in the management of the affairs of the Authority, the transaction of the business of the Authority, the payment of remuneration of the Directors and the employees of the Authority and the exercise of the powers and the performance of the duties of the Authority under this Act, and such other purposes as the Authority may authorize from time to time.

Payments out of the Fund.

(2) The Authority shall make rules for the withdrawal of any moneys from the Fund and no sum shall be withdrawn from the Fund except in accordance with such rules.

28. Notwithstanding the provisions of any other written law—

Power of Authority to call upon public corporation, &c., to carry out certain functions.

- (1) the Authority may for the purpose of carrying out any of its functions, allocate funds to any public corporation or to any department of Government with the approval of the Minister concerned or to any corporation established under this Act and it shall be the duty of such corporation or department, as the

Funds of the Authority and payment to be credited to Fund.

case may be, to carry out the said functions, and duly account for the expenditure of such functions;

- (2) the Authority shall be entitled to require such corporation, or department, as the case may be, to furnish such information as may be required by the Authority in respect of the expenditure of such funds and it shall be the duty of such corporation or department to comply with such requirement.

Financial year of the Authority.

29. The financial year of the Authority shall be the calendar year.

Exemption of Authority from payments of taxes.

30. Notwithstanding anything in any other written law—

- (a) all goods of any description imported or purchased out of bond, by the Authority shall be exempt from customs duty;
- (b) the Authority shall be exempt from the payment of stamp duty on any instrument executed by, or on behalf of or in favour of the Authority in cases where, but for this exemption the Authority would be liable to pay the duty chargeable in respect of such instrument:

Provided that such exemption shall not apply to any Corporation or subsidiary under the Authority.

Exemption from certain taxes of approved subsidiaries and investments therein.

31. (1) " Approved subsidiary " means a subsidiary of the Authority or a subsidiary of a corporation established under this Act, which is considered by the Minister to be essential for the economic progress of any Special Area and which is declared by the Minister in charge of the subject of Finance by notice published in the Gazette to be an approved subsidiary.

(2) " Approved investment " means an investment for the purpose of purchasing ordinary shares in any approved subsidiary other than an investment for the purpose of purchasing shares which are not the first issue.

(3) Any person who has made in any year of assessment an approved investment, shall be entitled on account of that investment to such relief from income tax in respect of such year of assessment as will secure that the tax payable by him is reduced to the amount which will be payable as the tax if the amount of the approved investment were deducted from the statutory income of such persons.

(4) The amount of the approved investment shall be excluded from the wealth of any person for the purpose of computing the wealth tax payable by such person for the five years of assessment next succeeding the date on which such investment was made.

(5) The income of any approved subsidiary shall be exempt from any income tax for each of the five years of assessment next succeeding the date on which such subsidiary commenced business.

(6) Any dividend which in any year is paid to the shareholders of any approved subsidiary shall be exempt from income tax for each of the five years of assessment next succeeding the date on which such approved subsidiary commenced business.

32. The emoluments of any scientist, technician, expert, adviser or any other person who is not a citizen of Sri Lanka and who is employed by the Authority or by a corporation or by any approved subsidiary with the prior written approval of the Minister, shall be paid—

Emoluments of experts, Ac., to be free from taxes, &c.

(i) without deduction for and free from any taxes, duties or fees now or hereafter imposed by or under any law of Sri Lanka; and

(ii) free from all restrictions now or hereafter imposed by or under any law of Sri Lanka.

33. (1) The Government is hereby authorized to guarantee, on such terms and conditions as the Government may determine, loans raised by the Authority from any local, international or foreign organization approved by the President. The loans authorized to be guaranteed under this subsection may be denominated in foreign currency.

Borrowings of the Authority and Government Guarantees.

(2) All such sums payable by the Government under any guarantee given under subsection (1) are hereby charged on the Consolidated Fund.

(3) All sums payable by the Authority in respect of principal, interest and other charges on any loan to the Authority from any international or foreign organization approved by the President or by the Government under any guarantee given under subsection (1) in respect of such a loan, shall, notwithstanding anything to the contrary in any law of Sri Lanka be paid—

- (i) without deduction for, and free from, any taxes, duties or fees now or hereafter imposed by or under any law of Sri Lanka; and
- (ii) free from all restrictions now or hereafter imposed by or under any law of Sri Lanka:

Provided, however, that the preceding provisions of this subsection shall not apply to any taxes, duties, fees or restrictions upon payments under any bond or promissory note to a holder thereof other than any international or foreign organization when such bond or promissory note is beneficially owned by a person resident in Sri Lanka.

(4) For the purposes of subsection (3), the question whether a person is or is not resident in Sri Lanka shall be determined in accordance with the provisions of the Inland Revenue Act (No. 28 of 1979).

(5) Every guarantee agreement between the Government and any international or foreign organization pursuant to this Act and every guarantee given by the Government pursuant to any such guarantee agreement shall, notwithstanding anything to the contrary in any law of Sri Lanka, be valid and enforceable in accordance with their respective terms.

(6) In the case of any loan made to the Authority by any international or foreign organization approved by the President and guaranteed by the Government the Government shall bear any loss, and be entitled to any profit, resulting from any revaluation of the rupee in relation to the

currency or currencies in which that loan is expressed and the amount of every such loss is hereby charged to the Consolidated Fund.

(7) The President or any person authorized in that behalf by the President by instrument under his hand is hereby empowered on behalf of the Government to sign any guarantee agreement between the Government and any local, international or foreign organization.

(8) Notwithstanding anything in any other written law, no agreement, bond or other document executed by the Authority in respect of any loan which may be raised by the Authority from any local, international or foreign organization approved by the President shall be subject to or be charged with any stamp duty or duties whatsoever.

34. The Authority shall cause the accounts of the Authority to be kept in such form and manner as may be determined by such Authority. Accounts of the Authority.

ESTABLISHMENT OF CORPORATIONS

35. (1) Where after consultation with the Authority, the Minister considers it desirable that a corporation should be established for the purpose of performing any one or more or any part of any function of the Authority in or in relation to any one or more or any part of any Special Area, the Minister may with the approval of the Cabinet of Ministers by Order (hereinafter referred to as "Incorporation Order") published in the Gazette— Incorporation Orders for establishment of corporations.

- (a) declare that a corporation shall be established to perform such functions as may be specified in such Order;
- (b) specify the area to which the Order relates;
- (c) assign a corporate name to the corporation ;
- (d) specify the initial share capital of the corporation and specify the amount, if any, of such share capital that shall be payable by the Authority; and

(e) specify any of the powers of the Authority as a special power of the corporation.

(2) Upon the publication of an Order under subsection (1) in the Gazette, a corporation (hereinafter referred to as the "Corporation") shall with the corporate name specified in such Order be deemed to have been established.

Corporation to be a body corporate.

36. (1) The Corporation shall have perpetual succession and a common seal and may sue and be sued in its corporate name and may perform such acts as body corporate may by law perform.

(2) The provision of section 11 of this Act shall, *mutatis mutandis*, apply in relation to any Corporation established under this Act.

Functions of Corporation.

37. The functions of the Corporation shall be those specified in the Incorporation Order and such other functions as may be specified by the Minister by Order published in the Gazette.

Powers of Corporation.

38. (1) The Corporation shall have the power to do all such acts and take all such steps as may be necessary for or conducive or incidental to the performance of its functions.

(2) Without prejudice to the generality of the powers conferred on the Corporation, the Corporation shall have the special powers specified in the Incorporation Order.

Board of Directors.

39. (1) There shall be a Board of Directors of the Corporation (hereinafter referred to as the "Board") which shall consist of seven Directors.

(2) The Board shall consist of such number of Government Directors and such number of Shareholder Directors as may be determined by the Minister by Order published in the Gazette.

Government Directors.

40. (1) Each of the Government Directors shall be appointed by the Minister and shall hold office for a period of three years, unless he earlier vacates office by death, resignation or removal:

Provided that a Government Director appointed in place of a Government

Director who is removed from, or otherwise vacates office shall, unless he earlier is removed from or otherwise vacates office, hold office for the unexpired period of the term of office of the Director whom he succeeds.

(2) The Minister may if he thinks expedient to do so, remove by Order published in the Gazette, any Government Director from office without assigning a reason. The removal of any Government Director from office by the Minister shall not be called in question in any court.

(3) Any Government Director may at any time resign from the Board by letter addressed to the Minister.

(4) Where a Government Director is, by reason of illness, infirmity or any other cause, temporarily unable to perform the duties of his office the Minister may appoint some other person to act in the place of such Government Director.

(5) A Government Director who has been removed from office shall not be eligible for re-appointment as a Director or to serve the Board in any other capacity.

41. The Minister may after consultation with the Authority, give to any Government Director, general or special directions as to the discharge of his functions and the exercise of his powers and such Government Director shall carry out every such direction.

Minister may issue special or general directions to Government Directors.

42. (1) The capital of the Corporation shall be that specified in the Incorporation Order and shall be divided into ordinary shares of one hundred rupees each :

Capital of the Corporation.

Provided that the shareholders may by special resolution increase such capital.

(2) The Authority shall make such contribution to such capital as may be specified by the Minister in the Incorporation Order.

(3) Subject to the provisions of subsection (2), the Board may allot, grant option over or otherwise dispose of the shares referred to in subsection (1), to such

Cap. 272] MAHAWELI AUTHORITY OF SRI LANKA

persons, on such terms and conditions and at such times as they think fit, but no share shall be issued at a discount.

Liability of shareholders.

43. The liability of any shareholder shall be limited to the amount, if any, unpaid in respect of the shares of such shareholder.

Shareholder Director.

44. A Shareholder Director shall be elected by the shareholders for the time being of the Corporation and shall hold office in accordance with the by-laws made in that behalf by the Corporation.

Chairman of Corporation.

45. (1) The Board of Directors may elect any one of the Directors to be the Chairman of the Corporation.

(2) The Chairman shall preside at all meetings of the Board and in the absence of the Chairman any Director elected by the Directors present shall preside at such meeting.

Managing Director of Corporation.

46. The Board may elect any one of the Directors to be Managing Director of the Corporation.

Provisions applicable to Corporation where Authority is not sole shareholder.

47. Where the Authority is not the sole shareholder of a Corporation—

(1) subject to the provisions of this Act, the provisions of the Companies Ordinance* shall, *mutatis mutandis*, apply to such Corporation in regard to any matter for which there is no provisions in this Act or in any regulation made thereunder;

(2) the Board of such Corporation may make by-laws dealing with such matters as are not provided for by this Act and which matters in the case of a company formed under the Companies Ordinance, * would be dealt with in the Articles of Association;

(3) subject to the provisions of this Act, the shareholders may by special resolution direct the Board to amend, vary, alter or resind or add to any by-law made by the Board under subsection (2) in such manner as may be specified in the resolution and the Board shall give effect to such direction;

(4) the by-laws made under this section shall be the by-laws of the Corporation in regard to matters to which they relate and shall be binding on the directors, shareholders and staff of the Corporation;

(5) the Board shall make available for inspection to any person the by-laws made by the Board which are in force for the time being.

48. (1) A Corporation shall not be required to be registered under the Companies Ordinance" nor shall the Registrar of Companies have power in respect of the Corporation.

Application of certain enactments to Corporation.

(2) The Business Undertakings (Acquisition) Act shall not apply in relation to a Corporation or to any approved subsidiary.

49. (1) The accounts of the Corporation shall be audited by two qualified auditors annually appointed by the shareholders of the Corporation.

Audit of accounts.

(2) The shareholders shall determine the remuneration of the auditors of the Corporation.

(3) Each auditor of the Corporation shall be supplied with a copy of the annual balance sheet of the Corporation and it shall be the duty of such auditor to examine such balance sheet together with the accounts and vouchers related thereto. He shall at all reasonable times have access to the books, accounts and vouchers of the Corporation and shall be entitled to require from the directors and officers of the Corporation such information and explanation as may be necessary for the performance of his duties.

(4) Each auditor of the Corporation shall make a written report upon the annual balance sheet and accounts of the Corporation and shall in such report state whether he has or has not obtained all the information and explanations required by him and whether in his opinion, such accounts are properly drawn up so as to exhibit a true and correct view of the Corporation's affairs according to the best of his information and the explanations given to him as shown by the books of the Corporation.

* Repealed and replaced by the Companies Act, No. 17 of 1982.

(5) The report of each auditor of the Corporation shall be transmitted by such auditor to the Board of Directors of the Corporation and to the Authority.

such publication and on such later date as may be specified in the regulation and shall be as valid and effectual as if it were herein enacted.

Power of Corporation to make by-laws.

50. (1) The Board of Directors of a Corporation may make by-laws in respect of all matters for which by-laws are required or authorized by this Act to be made.

(3) Every regulation shall as soon as it is convenient after its publication in the Gazette be brought before the Parliament for approval. Any regulation which is not so approved shall be deemed to be rescinded from the date of disapproval but without prejudice to anything previously done thereunder.

(2) Every by-law made under this section shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified thereon.

55. (1) The Authority may make rules in respect of all matters for which rules are required or authorized to be made. Rules.

Certain provisions of this Act to apply *mutatis mutandis* to a Corporation.

51. The provisions of sections 7, 8, 10, 11, 14, 15, 16, 17, 18, 19, 20, 26, 28, 29 and 32 of this Act shall, *mutatis mutandis*, apply in relation to any Corporation established under this Act.

(2) Every rule made by the Authority shall be approved by the Minister and published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified therein.

MISCELLANEOUS

Powers of Minister to order investigation upon activities.

52. The Minister may order all or any of the activities of the Authority to be investigated and reported upon by such person or persons as he may specify and upon such order being made, and Authority shall afford all such facilities to carry out such order.

56. The Authority and every Corporation established under this Act shall be deemed to be a scheduled institution within the meaning of the Bribery Act and the provisions of that Act, shall be construed accordingly. Authority and Corporation to be scheduled institutions within the meaning of the Bribery Act.

Directions of the Minister.

53. (1) The Minister may, after consultation with the Authority, give to the Authority in writing general or special directions as to the performance of the duties and the exercise of the powers of the Authority and the Authority shall carry out such directions.

57. All members, officers and servants of the Authority and every Corporation established under this Act shall be deemed to be public servants within the meaning and for the purposes of the Penal Code. Members, officers and servants of Authority, Ac., deemed to be public servants.

(2) The Minister may, from time to time, direct the Authority in writing to furnish to him in such form as he may require, returns, accounts and other information with respect to the property and business of the Authority and the Authority shall carry out every such direction.

58. No local authority shall without the concurrence of the Minister, be constituted in any Special Area notwithstanding anything in any other written law. Local authority not to be constituted without concurrence of Minister.

Regulations.

54. (1) The Minister may after consultation with the Authority, make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act.

59. (1) No suit or prosecution shall lie—
 (a) against the Authority for any act which in good faith is done or purported to be done by the Authority under this Act; or
 (b) against any member, officer, servant or agent of the Authority for any act which in good faith is done or is purported to be done by him under this Act or on the direction of the Authority. Protection for action taken under this Act or on the direction of the Authority.

(2) Every regulation made by the Minister shall be published in the Gazette and shall come into operation on the date of

Cap. 272] MAHAWELI AUTHORITY OF SRI LANKA

(2) Any expense incurred by the Authority in any suit or prosecution brought by or against the Authority before any court shall be paid out of the funds of the Authority, and any costs paid to, or recovered by, the Authority in any such suit or prosecution shall be credited to the funds of the Authority.

(3) Any expense incurred by any such person as is referred to in paragraph (b) of subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done or is purported to be done by him under this Act or on the direction of the Authority shall, if the court holds that such act is done in good faith, be paid, out of the funds of the Authority, unless such expenses is recovered by him in such suit or prosecution.

Interpretation. **60.** In this Act, unless the context otherwise requires—

" any other written law " means any written law other than this Act, whether enacted or to be enacted ;

" Authority " means the Mahaweli Authority of Sri Lanka;

" citizen of Sri Lanka " means—

(a) in the case of a person who is an individual, who is a citizen of Sri Lanka under any law for the time being in force relating to such citizenship;

(b) in the case of a person which is a company, means a company to which Part XI of the Companies Ordinance* does not apply; and

(c) in the case of a person which is a firm consisting of more than two persons, means a firm where the majority of the partners are citizens of Sri Lanka;

" Corporation " means a Corporation established under this Act;

" local authority " means any Municipal Council, Urban Council, Town

Council or Village Council and includes any Authority created and established by or under any law to exercise, perform and discharge powers, duties and functions corresponding to or similar to the powers, duties and functions exercised, performed and discharged by any such Council;

" person " includes a company or body of persons;

" public corporation " means any corporation, board or other body which was or is established by or under any written law other than the Companies Ordinance,* with funds or capital wholly or partly provided by the Government by way of grant, loan or otherwise;

" qualified auditor " means—

(a) an individual who, being a member of the Institute of Chartered Accountants of Sri Lanka, or of any other Institute established by law, possesses a certificate to practise as an Accountant issued by the Council of such Institute; or

(b) a firm of Accountants each of the resident partners of which, being a member of the Institute of Chartered Accountants of Sri Lanka or of any other Institute established by law, possesses a certificate to practise as an Accountant issued by the Council of such Institute.

" special resolution " means a resolution passed by a majority of not less than three-fourths of such shareholders as, being entitled to do so, vote in person or by proxy at a meeting of the shareholders of which not less than twenty-one days' notice has been duly given to the shareholders specifying the resolution intended to be proposed at that meeting;

* Repealed and replaced by the Companies Act, No. 17 of 1982.

MAHAWELI AUTHORITY OF SRI LANKA [Cap. 272

" subsidiary " means a company with limited liability registered under the provisions of the Companies Ordinance * of which not less than ten *per centum* of the share capital is owned by the Authority or by a Corporation established under this Act.

SCHEDULE A

[Section 21.]

The Mahaweli Development Board established under the Mahaweli Development Board Act-
The Central Engineering Consultancy Bureau established under the State Industrial Corporations Act.
The Ceylon Electricity Board established under the Ceylon Electricity Board Act.
The River Valleys Development Board established under the River Valleys Development Board Act.
The Survey Department.
The Irrigation Department.

SCHEDULE B

[Section 22.]

Agricultural Development Authority Incorporation Order.
Agrarian ^CIMCCS Act.
Animals Act.
Co-operative Societies Law.
Entertainment Tax Ordinance.
Fauna and Flora Protection Ordinance.
Flood Prevention Ordinance.
Forest Ordinance.
Irrigation Ordinance.
Land Development Ordinance.
Mahaweli Development Board Act.
Mines and Minerals Law.
National Water Supply and Drainage Board Law.
Paddy Marketing Board Act.
River Valley Development Board Act.
Sale of State Lands (Special Provisions) Law, No. 43 of 1973.
State Land's Ordinance.
State Lands (Recovery of Possession) Act.
Thoroughfares Ordinance.
Tolls Ordinance.
Vehicles Ordinance.
Water Resources Board Act
Wells and Pits Ordinance,
Written law enacted under any of the aforesaid enactments.

* Repealed and replaced by the Companies Act, No. 17 of 1982,