

Public Utilities (Amendment) Bill

Bill No. 7/2012.

Read the first time on 8th March 2012.

A BILL

intituled

An Act to amend the Public Utilities Act (Chapter 261 of the 2002 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Public Utilities (Amendment) Act 2012 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 Amendment of section 2

2. Section 2 of the Public Utilities Act (referred to in this Act as the principal Act) is amended —

(a) by deleting the definition of “authorised officer” and substituting the following definition:

10 ““authorised officer” means an officer or employee of the Board, or an officer of any other statutory authority, authorised by the Board under section 10(6);” and

(b) by deleting the full-stop at the end of the definition of “water service worker licence” and substituting a semi-colon, and by
15 inserting immediately thereafter the following definition:

““waterway” means a navigable river, conduit or drain.”.

Amendment of section 6

3. Section 6(1) of the principal Act is amended —

(a) by inserting, immediately after paragraph (d), the following
20 paragraph:

“(da) collect and treat used water;”;

(b) by deleting paragraph (f) and substituting the following
paragraph:

25 “(f) act as an agent of the Government in the construction, management and maintenance of all or any part of any of the following which belongs to the Government:

(i) public sewerage systems;

(ii) public sewers;

30 (iii) storm water drainage systems, drains and drainage reserves;

(iv) any boat transfer facility or barrage in or connecting to any reservoir;”;

(c) by deleting the words “and improvement” in paragraph (g) and substituting the words “, improvement, operation and use”; and

5 (d) by deleting the word “and” at the end of paragraph (j), and by inserting immediately thereafter the following paragraph:

“(ja) regulate and manage activities in and around reservoirs, catchment areas and waterways maintained by the Board; and”.

10 **Amendment of section 10**

4. Section 10 of the principal Act is amended —

(a) by inserting, immediately after subsection (5), the following subsection:

15 “(6) The Board may, from time to time, appoint and authorise in writing —

(a) any officer or employee of the Board, or any officer of any other statutory authority, to be an authorised officer for the purposes of this Act; and

20 (b) any authorised officer or other person to perform any particular function or duty or to exercise any particular power under this Act, subject to such conditions or limitations as the Board may specify.”; and

25 (b) by inserting, immediately after the word “employees” in the section heading, the word “, etc.”.

Amendment of section 20

5. Section 20 of the principal Act is amended —

(a) by inserting, immediately after subsection (1), the following subsections:

30 “(1A) Subject to section 14, for the purpose of determining the price to be charged for the supply of water by it, the Board may take into consideration all costs incurred in enabling it to

so supply the water, including (but not limited to) the following:

- 5 (a) the collection of water from any source, whether water from any natural source, used water (including sewage, waste matter and effluent) or otherwise;
- (b) the purchase of water from any source;
- (c) the storage of water;
- (d) the treatment of water to the standards necessary for the use for which the water is required;
- 10 (e) the supply of water to any premises;
- (f) the maintenance of any system employed in the collection, storage, treatment or supply of water;
- (g) ensuring the quality, safety and security of the water supply.

15 (1B) In determining the price to be charged for the supply of water by the Board, subsection (1A) shall not permit the Board to take into consideration —

- 20 (a) the costs in connection with any activity referred to in that subsection if an amount of tax is payable in relation to that same activity under subsection (4) (whether by the same person paying the price or otherwise); or
- (b) any costs borne by the Government or by the Board on behalf of the Government.

25 (1C) For the purposes of subsection (1), the Board may prescribe different prices for persons differently situated, including different prices for different volumes of water supplied.”;

30 (b) by inserting, immediately after subsection (3), the following subsections:

“(4) There shall be paid to the Board a waterborne tax for the discharge of the Board’s functions in relation to used water (including sewage, waste matter and effluent) and sewerage, and the waterborne tax shall be of such amount and payable at

such times as the Minister may, by order published in the *Gazette*, prescribe.

(5) For the purposes of subsection (4), the Minister may prescribe different amounts of the waterborne tax for persons differently situated.

(6) The waterborne tax shall be payable by —

(a) an occupier of premises (including the Government);
or

(b) where the premises are vacant, the owner of the premises (including the Government).

(7) In determining the amount of the waterborne tax payable by any person, the Minister may base the calculation of the tax on all or any of the following:

(a) the number of sanitary appliances which are installed in the premises;

(b) the amount of water supplied to the premises;

(c) any estimate of the amount of used water (including sewage, waste matter and effluent) disposed of.

(8) The waterborne tax collected under this section shall be paid into the funds of the Board.

(9) Without prejudice to section 25, any waterborne tax payable under this section may be recovered by the Board as a civil debt due to the Board.

(10) The Board may, with the approval of the Minister, grant any person or class of persons such amount of rebate on the waterborne tax as the Board may determine.”; and

(c) by inserting, immediately after the word “apparatus” in the section heading, the words “, etc., payable to Board”.

Amendment of section 21

6. Section 21 of the principal Act is amended —

(a) by deleting the words “for human consumption” in subsections (1) and (2);

- (b) by deleting the words “for human consumption to any building” in subsection (3) and substituting the words “to any premises”;
- (c) by deleting subsection (4) and substituting the following subsections:

5 “(4) Without prejudice to subsection (3), the Board may, in its discretion —

 (a) refuse to enter into an agreement for the supply; or

 (b) enter into an agreement for a reduced supply,

10 of water that is not for human consumption to any premises, where the Board is of the opinion that it is impracticable or uneconomical to supply the water to those premises.

 (5) The Board shall not be liable for any loss or damage caused to any person by —

15 (a) any refusal or discontinuance of the supply of water under subsection (3); or

 (b) any refusal to enter into an agreement for the supply of water, or entering into an agreement for a reduced supply of water, under subsection (4).”; and

20 (d) by deleting the section heading and substituting the following section heading:

“Board may supply water”.

Amendment of section 24

7. Section 24 of the principal Act is amended —

25 (a) by deleting the words “enter at all reasonable hours in the day time any premises” in subsection (1) and substituting the words “enter any premises at all reasonable hours in the day or night, or at such other time as may be agreed with the owner or occupier of the premises,”; and

30 (b) by deleting the words “night inspection” in subsection (3) and substituting the words “inspection at any time of the day or night”.

New sections 24A and 24B

8. The principal Act is amended by inserting, immediately after section 24, the following sections:

5 **“Power to enter premises for installation of pipes, water installations, etc.**

24A.—(1) The Board may, for the purposes of this Act, by its employees, agents or contractors, enter any premises at all reasonable hours in the day or night, or at such other time as may be agreed with the owner or occupier of the premises, for all or any of the following purposes:

- 10
- (a) to lay or install under, over, in, on or through the premises, such mains, pipes, water installations or water service installations as the Board considers necessary for the supply of water to those or other premises;
- 15 (b) to inspect, maintain, adjust, repair or alter any such main, pipe, water installation or water service installation referred to in paragraph (a);
- (c) to carry out any works requisite for, or incidental to, the purposes of any works falling within paragraph (a) or (b), including —
- 20 (i) excavating any premises, sewer or drain;
- (ii) tunnelling or boring under any premises, sewer or drain;
- (iii) removing or using all earth and materials in or under any premises, sewer or drain; and
- 25 (iv) erecting, placing or installing any equipment or apparatus in or under any premises.

(2) In carrying out any of the works under this section, the Board shall cause as little damage as possible and shall repair or make reasonable compensation for any damage done to the affected premises.

(3) Except as provided under subsection (2), the Board shall not be liable to pay any person any fee, charge or expense on account of

such entry to any premises or of anything done to the premises under this section.

5 (4) The Board shall, before entering any premises for the purposes specified in subsection (1), give at least 14 days' written notice to the owner or occupier of the premises, stating as fully and accurately as possible the nature and extent of the works intended to be done.

(5) The owner or occupier of the premises may, within 14 days after receiving the notice referred to in subsection (4), lodge a written objection with the Minister.

10 (6) If no objection is lodged within the time specified in subsection (5), the Board may forthwith enter the premises and do all or any of the works specified in the notice under subsection (4).

15 (7) If an objection is lodged and is not withdrawn before the date fixed for the hearing thereof, the Minister shall inquire into the matter, giving each party an opportunity to be heard, and the Board shall not enter the premises or carry out the works specified in the notice under subsection (4) until the Minister so authorises at the conclusion of the inquiry.

20 (8) Upon the conclusion of the inquiry, the Minister may authorise, either unconditionally or subject to such terms, conditions and stipulations as he thinks fit, the entry to the premises and the carrying out of any of the works specified in the notice under subsection (4), and the decision of the Minister shall be final.

25 (9) The Board may serve a notice on the owner or supplier of any gas, electricity, water or telecommunication services —

30 (a) to alter the course or position of any wire, line, cable, pipe, tube, casing, duct, post, structure or other apparatus which belongs to that owner or supplier or is maintained by that owner or supplier if, in the opinion of the Board, such alteration is required for the purposes of subsection (1); and

(b) to repair any premises thereby disturbed,

and where any approval of a statutory authority is required for that alteration, to do so in accordance with that approval.

35 (10) The Board may give notice to the owner or occupier of any premises requiring him to remove any object or structure described in the notice which is erected on or attached to, or projects from, the

premises if, in the opinion of the Board, the removal of the object or structure is required for any of the purposes specified in subsection (1).

(11) Any costs and expenses reasonably incurred by the owner, supplier or occupier in complying with any notice under subsection (9) or (10) shall be borne by the Board.

Board may act in cases of emergency

24B. Notwithstanding anything in section 24, 24A, 31, 32 or 33, where the Board considers that immediate action is necessary —

- (a) upon the occurrence of an emergency, fire or excessive drought;
- (b) because the quality of water supplied fails to meet the standards required by the Board;
- (c) to facilitate the repair, alteration, replacement or maintenance of any main, installation or water installation;
- (d) to avoid undue interference with the supply of water to consumers;
- (e) to conserve water supply; or
- (f) in the interests of public safety or for other reasons affecting public interest,

the Board may immediately and without notice enter any premises and carry out, or direct the immediate execution of, any work or the doing of any act, being any work or act authorised under any of those sections, which is in the opinion of the Board necessary for the service or safety of the public.”.

Amendment of section 25

9. Section 25(1) of the principal Act is amended by inserting, immediately after the words “If the amount of”, the words “any tax under this Act or the amount of”.

Amendment of section 27

10. Section 27 of the principal Act is amended —

(a) by inserting, immediately after paragraph (a) of subsection (1), the following paragraph:

“(aa) if the quality of water supplied fails to meet the standards required by the Board;”; and

5 (b) by deleting the words “to any main” in subsection (1)(b) and substituting the words “or replacement of any main, installation or water installation”.

Amendment of section 31

10 **11.** Section 31 of the principal Act is amended by deleting the words “by its employees at all reasonable hours in the day” in subsections (1) and (2) and substituting in each case the words “by its employees, agents or contractors, at all reasonable hours in the day or night, or at such other time as may be agreed with the owner or occupier of the premises,”.

Amendment of section 32

15 **12.** Section 32(2) of the principal Act is amended by deleting the word “compensation” and substituting the words “reasonable compensation”.

Amendment of section 35

13. Section 35 of the principal Act is amended by deleting the words “fee or charge” and substituting the words “fee, charge or tax”.

Amendment of section 40

20 **14.** Section 40 of the principal Act is amended by deleting subsection (5).

Amendment of section 45

25 **15.** Section 45(2) of the principal Act is amended by deleting the words “engage, once in every 60 months,” and substituting the words “, whenever the Board so requires, engage”.

Amendment of section 47

16. Section 47 of the principal Act is amended —

30 (a) by deleting the word “wilfully” and substituting the words “, whether wilfully or otherwise;”; and

(b) by renumbering the section as subsection (1) of that section, and by inserting immediately thereafter the following subsections:

5 “(2) In any proceedings for an offence under subsection (1), it shall be a defence for the person charged under that subsection to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence, but this defence shall not be available to any person who may be liable by virtue of section 56A.

10 (3) If it appears to the Board that there has been a contravention of subsection (1), the Board may, by notice in writing, require any person who has done any of the acts referred to in that subsection or such other person who may be liable under that subsection by virtue of section 56A (referred to in this section as the person in default) to carry out such works as may be necessary to restore the property to its original condition, or to replace it, within such time as may be specified in the notice.

15 (4) If the Board is of the opinion that immediate action is necessary or expedient or that the property cannot be restored by the person in default, the Board may, instead of issuing the notice under subsection (3) —

20 (a) carry out such works as are necessary to restore the property to its original condition, or replace the property; and

25 (b) recover in a court of competent jurisdiction as a debt due to it all expenses reasonably incurred in doing so from the person in default.

30 (5) If the person to whom a notice is given under subsection (3) fails to comply with the notice within the time specified, the Board may carry out the works specified in the notice in such manner as it thinks fit and recover in a court of competent jurisdiction as a debt due to it all expenses reasonably incurred in doing so from the person in default.

35 (6) Without prejudice to the right of the Board to exercise its powers under subsection (5), any person who, without reasonable excuse, fails to comply with a notice given to him under subsection (3) shall be guilty of an offence.”.

New section 47A

17. The principal Act is amended by inserting, immediately after section 47, the following section:

“Damage to water mains and installations, etc.

5 **47A.**—(1) Any person who, whether wilfully or otherwise, removes, destroys or damages or causes or permits to be removed, destroyed or damaged, any water main belonging to or under the management or control of the Board, shall be guilty of an offence and shall be liable on conviction —

10 (a) to a fine not exceeding \$40,000 or to imprisonment for a term not exceeding 3 months or to both; or

 (b) if the water main is 300 mm or more in diameter, to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding 3 years or to both.

15 (2) Any person who, whether wilfully or otherwise, removes, destroys or damages or causes or permits to be removed, destroyed or damaged any part of —

 (a) an installation or water installation which supplies water to the Board; or

20 (b) an installation or water installation belonging to or under the management or control of the Board,

and thereby interferes with the production or supply of water by that installation or water installation, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding 3 years or to both.

25

 (3) In any proceedings for an offence under subsection (1) or (2), it shall be a defence for the person charged under either of those subsections to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence, but this defence shall not be available to any person who may be liable by virtue of section 56A.

30

 (4) If it appears to the Board that there has been a contravention of subsection (1) or (2), the Board may, by notice in writing, require any person who has done any of the acts referred to in subsection (1) or (2) or such other person who may be liable under either of those

35

subsections by virtue of section 56A (referred to in this section as the person in default) to carry out such works as may be necessary to restore the water main, installation or water installation to its original condition, or to replace it, within such time as may be specified in the notice.

(5) If the Board is of the opinion that immediate action is necessary or expedient or that the water main, installation or water installation cannot be restored by the person in default, the Board may, instead of issuing the notice under subsection (4) —

(a) carry out such works as are necessary to restore the water main, installation or water installation to its original condition, or replace it; and

(b) recover in a court of competent jurisdiction as a debt due to it all expenses reasonably incurred in doing so from the person in default.

(6) If the person to whom a notice is given under subsection (4) fails to comply with the notice within the time specified, the Board may carry out the works specified in the notice in such manner as it thinks fit and recover in a court of competent jurisdiction as a debt due to it all expenses reasonably incurred in doing so from the person in default.

(7) Without prejudice to the right of the Board to exercise its powers under subsection (6), any person who, without reasonable excuse, fails to comply with a notice given to him under subsection (4) shall be guilty of an offence.”.

Amendment of section 50

18. Section 50 of the principal Act is amended —

(a) by deleting the word “wilfully” in subsection (1)(d) and substituting the words “whether wilfully or otherwise,”; and

(b) by inserting, immediately after subsection (3), the following subsection:

“(4) In any proceedings for an offence under subsection (1) or (2)(b) or (c), it shall be a defence for the person charged under any of those provisions (but not by virtue of section 56A) to prove that he took all reasonable precautions

and exercised all due diligence to avoid the commission of the offence.”.

Repeal and re-enactment of section 51

5 **19.** Section 51 of the principal Act is repealed and the following section substituted therefor:

“Penalty for obstructing Board in its duty

51. Any person who —

10 (a) hinders or obstructs the Board, any employee, agent or contractor of the Board, any authorised officer or other person authorised by the Board in the performance or execution of its or his duty, or of any thing which it or he is empowered or required to do, under this Act; or

(b) interferes with any work authorised to be done under this Act,

15 shall be guilty of an offence.”.

Amendment of section 55

20. Section 55 of the principal Act is amended —

20 (a) by deleting the words “Any police officer or authorised officer” in subsection (1) and substituting the words “Any police officer, authorised officer or such other person as may be authorised by the Board for the purposes of this section (referred to in this section as an authorised person)”;

25 (b) by deleting the words “the police officer or authorised officer” in subsection (1) and substituting the words “the police officer, authorised officer or authorised person, as the case may be”;

(c) by deleting the words “or authorised officer” in subsections (2) and (3)(a) and substituting in each case the words “, authorised officer or authorised person”; and

30 (d) by deleting the words “or authorised officer” in the section heading and substituting the words “, authorised officer or authorised person”.

New sections 55A and 55B

21. The principal Act is amended by inserting, immediately after section 55, the following sections:

“Power to examine and secure attendance

5 **55A.**—(1) An authorised officer may do all or any of the following:

- (a) issue a written order requiring anyone within the limits of Singapore, who appears to be acquainted with any of the facts and circumstances of matters under this Act, to attend before him, and that person shall attend as required;
- 10 (b) examine orally any person who appears to be acquainted with the facts and circumstances of matters under this Act —
 - (i) whether before or after that person or anyone else is charged with an offence in connection with the matter;
 - 15 and
 - (ii) whether or not that person is to be called as a witness in any inquiry, trial, or other proceeding in connection with the matter;
- (c) require any person to furnish any information or produce
- 20 any document in the possession of that person in connection with the matter, and may, without payment, inspect, keep, copy or make extracts from such document.

(2) Any person examined under this section shall be bound to state truly what he knows of the facts and circumstances concerning

25 matters under this Act, except that he need not say anything that might expose him to a criminal charge, penalty or forfeiture.

(3) A statement made by any person examined under this section shall —

- (a) be reduced to writing;
- 30 (b) be read over to him;
- (c) if he does not understand English, be interpreted for him in a language that he understands; and
- (d) after correction, if necessary, be signed by him.

(4) If any person fails to attend as required by an order under subsection (1), the Board may report such failure to a Magistrate who may then, in his discretion, issue a warrant ordering the person to attend.

5 **Power to enter and investigate**

55B. If an authorised officer has reasonable grounds to suspect that an offence under this Act has been committed, he may, at any time without notice, enter any premises and do all or any of the following for the purpose of investigating the suspected offence under this Act:

- 10 (a) search the premises and take possession of any thing found therein and reasonably believed to be connected to the commission of the offence;
- (b) require the production of records, certificates, notices and documents relating or reasonably believed to relate to the offence, wherever and by whomsoever kept, and take and
15 retain extracts or copies thereof;
- (c) take and retain samples of any materials (whether solid, liquid, gaseous or vapour) found for the purpose of analysis;
- (d) take such photographs as the authorised officer thinks
20 necessary for the purposes of the investigation;
- (e) require any person whom the authorised officer finds in the premises to produce his identity card or other identification papers for inspection for the purpose of the investigation.”.

New section 56A

25 **22.** The principal Act is amended by inserting, immediately after section 56, the following section:

“Liability for offence committed by agent or employee

56A. Where an offence under this Act is committed by any person acting as an agent or employee of another person, or being otherwise
30 subject to the supervision or instruction of another person for the purposes of any employment in the course of which the offence was committed, that other person shall, without prejudice to the liability of the first-mentioned person, be liable for that offence in the same manner and to the same extent as if he had personally committed the

offence unless he proves to the satisfaction of the court that the offence was committed without his consent or connivance and that it was not attributable to any neglect on his part.”.

Repeal and re-enactment of section 57

5 **23.** Section 57 of the principal Act is repealed and the following section substituted therefor:

“Duty to enquire before excavation

10 **57.**—(1) Any person who digs, bores, trenches, grades, excavates, tunnels or breaks any ground with any mechanical equipment, tool or explosive, or allows his employee or agent to do so, without first —

- 15 (a) obtaining from the Board the relevant plans or records to ascertain the location of any main or pipe belonging to or under the management or control of the Board that may be interfered with by such works;
- (b) carrying out trial trenches to physically ascertain the location of any such main or pipe that may be interfered with by such works; and
- 20 (c) complying with such other requirements as the Board may specify to protect any such main or pipe within the vicinity of such works,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 3 years or to both.

25 (2) For the purpose of subsection (1)(a), any person may, upon payment of the prescribed fee, be permitted to inspect and take copies of the relevant plans or records maintained by or on behalf of the Board.”.

Amendment of section 67

30 **24.** Section 67 of the principal Act is amended by inserting, immediately after the words “affixed to any premises by the Board”, the words “, or acquired by the Board,”.

New section 68A

25. The principal Act is amended by inserting, immediately after section 68, the following section:

“Compensation, damages, costs and expenses to be determined by Magistrate’s Court or District Court

5 **68A.**—(1) Except as otherwise provided, in all cases where compensation, damages, fees, costs or expenses are provided under this Act to be paid, the amount and, if necessary, the apportionment of the amount and any question of liability shall, in case of dispute, or
10 failure to pay, be summarily ascertained and determined by a Magistrate’s Court or, if the amount claimed exceeds the Magistrate’s Court limit, by a District Court.

(2) In any proceeding under subsection (1), the Magistrate’s Court or the District Court may —

- 15 (a) inquire whether those expenses ought to be borne wholly or in part by some person other than the defendant in the proceedings;
- (b) make such order concerning the expenses or their apportionment as appears to the Court to be just; and
- 20 (c) where those expenses were incurred by the Board in carrying out any works under section 33(2)(b), 47(4) or (5) or 47A(5) or (6), inquire whether it was reasonable to carry out those works.

25 (3) A Magistrate’s Court or a District Court shall not order the expenses or any part thereof to be borne by any person other than the defendant in the proceedings unless the Court is satisfied that the other person has had due notice of the proceedings and an opportunity of being heard.

30 (4) If the amount of compensation, damages, fees, costs or expenses is not paid by the party liable to pay it within 7 days after demand, that amount may be reported to a Magistrate’s Court or a District Court and recovered in the same way as if it were a fine imposed by a Magistrate’s Court or a District Court, as the case may be.

35 (5) An appeal shall lie to the High Court from any decision of a Magistrate’s Court or a District Court under this section, and the

provisions of the Criminal Procedure Code 2010 (Act 15 of 2010) shall apply, with the necessary modifications, to all such appeals.”.

Amendment of section 72

5 **26.** Section 72(2) of the principal Act is amended by deleting paragraph (n) and substituting the following paragraphs:

“(n) in relation to the regulation of activities in and around reservoirs and waterways maintained by the Board —

- 10 (i) the manner in which reservoirs and waterways may be used, and the designating of areas and granting of permits for such uses;
- 15 (ii) the types of vessels which may be operated in the reservoirs and waterways, the permits required for such operation, the terms and conditions upon which, and the circumstances in which, those permits may be granted, held, suspended, cancelled, altered, extended, renewed or replaced, and the fees payable in respect thereof;
- (iii) the equipment to be carried on such vessels and the insurance and safety requirements for such vessels;
- (iv) the qualifications for operators of such vessels;
- 20 (v) the safety of navigation, the prevention of collisions and the reporting of accidents in reservoirs and waterways; and
- (vi) the use of any boat transfer facility in or connecting to any reservoir and the fees payable in respect thereof;
- 25 (o) the prescribing of fees and charges for the purposes of this Act or any other written law administered by the Board or for the carrying out of any function of the Board.”.

Amendment of Second Schedule

30 **27.** The Second Schedule to the principal Act is amended by deleting paragraph 1.

Validation

28.—(1) This section shall apply to sums purportedly determined before the date of commencement of this section as payable from any person as

fees or charges calculated based on or in respect of the amount of water consumed or used under —

- (a) section 72(1) of the Sewerage and Drainage Act (Cap. 294);
- 5 (b) section 32(1) of the Water Pollution Control and Drainage Act (Cap. 348, 1985 Ed.); or
- (c) section 51(2) of the Local Government Integration Act (Cap. 210, 1970 Ed.).

10 (2) Every sum referred to in subsection (1) shall be, and be taken to have been, by force of this section, validly imposed as a tax under the principal Act as amended by this Act as if the principal Act as amended by this Act was in force at the material time; and no legal proceedings shall be instituted on or after 8th March 2012 in any court on account of or in respect of any collection of these sums by the Board.

Savings and transitional provisions

15 **29.** The Minister may, in relation to any provision of this Act, for a period of 2 years after the date of commencement of that provision, prescribe by regulations published in the *Gazette* such provisions of a savings or transitional nature consequent on the enactment of that provision as he considers necessary or expedient.

EXPLANATORY STATEMENT

This Bill seeks to amend the Public Utilities Act (Cap. 261) for the following main purposes:

- (a) to provide for the appointment of officers from other statutory authorities to be authorised officers for the purposes of the Act and for the appointment and authorisation of other persons to perform specific functions under the Act;
- (b) to provide for the functions and powers of the Public Utilities Board (the Board) in relation to the collection and treatment of used water;
- (c) to provide for a new function of the Board in regulating and managing activities in and around reservoirs and waterways, including the management and maintenance of any barrage or boat transfer facility in or connecting to a reservoir;
- (d) to set out specific powers in relation to the laying of pipes by the Board;

- (e) to empower the Board to act immediately in cases of emergency;
- (f) to enhance the protective measures for key infrastructure such as water mains, installations and water installations; and
- (g) to impose a waterborne tax in place of certain fees imposed under the Sewerage and Drainage Act (Cap. 294).

Clause 1 relates to the short title and commencement.

Clause 2 amends the definition of “authorised officer” in section 2 to align it with section 10(6) and inserts a new definition for “waterway”.

Clause 3 amends section 6(1) to increase the functions and duties of the Board to cover the collection and treatment of used water, the regulation and management of activities in and around reservoirs, catchment areas and waterways, and the management and maintenance of any boat transfer facility or barrage in or connecting to a reservoir.

Clause 4 amends section 10 to provide for the appointment of officers from other statutory authorities to be authorised officers for the purposes of the Act and for the appointment and authorisation of other persons to perform specific functions under the Act.

Clause 5 amends section 20 by inserting new subsections (1A), (1B) and (1C). The new subsections (1A) and (1B) make reference to the costs that may be included in the price of water supplied by the Board, and the circumstances in which such costs must not be included in the price, respectively. The new subsection (1C) clarifies that different prices may be set for persons differently situated, including different prices for different volumes of water supplied, for instance, through tiered pricing.

The clause further amends section 20 by inserting new subsections (4) to (10) to provide for a waterborne tax, and matters relating thereto. As a consequence of the provision for the tax in the section, the section heading is also amended to reflect the expanded scope.

Clause 6 amends section 21 to provide generally that the Board may enter into agreements for the supply of any type of water and may stop or discontinue, whether temporarily or permanently, the supply of water in certain circumstances where such supply could be dangerous to health or of dubious quality. However, in the case of water that is not for human consumption, the Board may decline to supply the water or to provide the full supply to any premises where it is impracticable or uneconomical to do so.

Clause 7 amends section 24 to allow the employees, agents or contractors of the Board greater flexibility as to the time when they may enter upon premises. For instance, in the case of certain industrial or commercial premises or public streets, it may be more reasonable to carry out surveys, inspections or works at night or at a time agreed with the owner or occupier of the premises, rather than in the day.

Clause 8 inserts new sections 24A and 24B.

The new section 24A expressly empowers the Board to enter premises to lay pipes and other installations and water installations, to repair or replace them, and to carry out other works requisite for or incidental thereto. The section also provides that advance notice must be given to the owner or occupier of the premises, who may object to the laying of the pipes, etc., on or across his premises, and for such objection to be decided upon by the Minister. Reasonable compensation is to be paid to the owner of the premises if there is any damage done to the premises in laying the pipes.

The new section 24B empowers the Board to act immediately in certain cases of emergency, notwithstanding other provisions for the giving of advance notice.

Clause 9 makes a consequential amendment to section 25(1) following the insertion of the new section 20(4) *vide* clause 5.

Clause 10 amends section 27 to insert additional grounds on which the supply of water may be stopped or interrupted by the Board, that is, if the water quality falls below the required standard or if repairs are required to any installation or water installation, which may include a water treatment plant or water production plant.

Clause 11 makes amendments to section 31 similar to that in section 24 to allow the employees, agents or contractors of the Board greater flexibility as to the time when they may enter upon premises.

Clause 12 amends section 32(2) to align the provision on compensation for consistency within the Act.

Clause 13 makes a consequential amendment to section 35 following the insertion of the new section 20(4) *vide* clause 5.

Clause 14 amends section 40 to delete the provision on vicarious liability as a consequential amendment to the insertion of the new section 56A *vide* clause 22.

Clause 15 amends section 45(2) to give the Board flexibility as to the frequency with which the inspection and maintenance of any water service installation is required to be carried out.

Clause 16 amends section 47 to make it an offence for a person to remove, destroy or damage any property of the Board, whether wilfully or otherwise, unless the person had taken all reasonable precautions and exercised all due diligence to avoid doing so. The Board may either give the person in default a notice to restore the property to its original condition or replace it, or may itself restore or replace the property and recover the cost of doing so from the person in default. The person in default refers to the person who removed, destroyed or damaged the property, or the principal or employer vicariously liable for the act of his agent or employee.

Clause 17 inserts a new section 47A to create enhanced penalties for the removal, destruction or damage of certain key infrastructure, such as water mains, particularly the larger water mains, and installations or water installations, which may include water treatment plants or water production plants. Similar to section 47, the Board may either give the person in default a notice to restore the water main, installation or water installation to its original condition or replace it, or may itself restore or replace the property and recover the cost of doing so from the person in default. The person in

default refers to the person who removed, destroyed or damaged the property, or the principal or employer vicariously liable for the act of his agent or employee.

Clause 18 amends section 50 to remove the element of wilfulness in the offence of interfering with or disrupting the supply of water by the Board, and to introduce the defence of having taken all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Clause 19 repeals and re-enacts section 51 to extend the offence of obstructing an employee, an agent or a contractor of the Board in the performance of his duty under the Act to obstructing also an authorised officer or other person authorised by the Board.

Clause 20 amends section 55 to allow a person authorised by the Board, such as an auxiliary police officer, to carry out certain enforcement powers in relation to asking for a person's identity.

Clause 21 inserts 2 new sections to confer enforcement powers on authorised officers.

The new section 55A empowers authorised officers to require the attendance of any person acquainted with the facts and circumstances of a case, and to question and record statements from him.

The new section 55B empowers authorised officers to exercise certain powers of investigation, such as entering and searching premises, taking documents, samples and photographs, etc.

Clause 22 inserts a new section 56A to make a principal or an employer liable for an offence committed by his agent or employee, unless the principal or employer proves to the satisfaction of the court that the offence was committed without his consent or connivance and was not attributable to any neglect on his part. This provision previously applied only in relation to section 40 (Licensing of water service worker) and is now applicable generally to all offences under the Act.

Clause 23 repeals and re-enacts section 57 to specify in more detail the enquiries required to be made before commencing any excavation, and to provide for copies of the relevant plans and records to be obtained upon payment of a prescribed fee.

Clause 24 amends section 67 to clarify that the rights in any property of the Board (such as fixtures or fittings), whether affixed by the Board to premises or pre-existing on the premises and later acquired by the Board, do not vest in the owner of the premises and are not transferred when the rights to the premises are transferred.

Clause 25 inserts a new section 68A to provide for the Magistrate's Court or the District Court to summarily determine any dispute as to compensation, damages, fees, costs or expenses payable under the Act. A similar provision is found in section 48 of the Sewerage and Drainage Act.

Clause 26 amends section 72(2) to allow the Minister to make regulations to give effect to the new function of the Board in relation to the regulation of activities in and around reservoirs and waterways.

Clause 27 amends the Second Schedule to delete paragraph 1 as a consequential amendment since the power to lay pipes has been set out in new section 24A.

Clause 28 provides for the validation as a tax of certain amounts collected or due for collection under section 72(1) of the Sewerage and Drainage Act, the repealed section 32(1) of the Water Pollution Control and Drainage Act (Cap. 348, 1985 Ed.) or the repealed section 51(2) of the Local Government Integration Act (Cap. 210, 1970 Ed.).

Clause 29 provides for savings or transitional provisions to be prescribed by the Minister.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
