



Western Australia

## **Land Drainage Act 1925**

Compare between:

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Western Australia

## Land Drainage Act 1925

**An Act to provide for the drainage of land, the use of drains and drainage water and the constitution of drainage districts and for other relative purposes.**

*[Long title amended by No. 38 of 1978 s. 3; No. 25 of 1985 s. 218.]*

## Part I — Preliminary

### 1. Short title and commencement

This Act may be cited as the *Land Drainage Act 1925*, and shall come into operation on a day to be fixed by proclamation <sup>1</sup>.

[2-5. ~~Repealed~~Deleted by No. 25 of 1985 s. 219.]

### 6. ~~Interpretation~~Terms used in this Act

(1) In this Act, subject to the context —

~~“Adjoining”~~adjoining, as applied to pieces of land, extends to pieces of land which are separated merely by a road or highway, or water course owned by the Crown;

~~“Corporation”~~ means the Water Corporation established by section 4 of the *Water Corporation Act 1995*;

~~“Crown lands”~~ means waste lands of the Crown not granted or contracted to be granted in fee simple or held or occupied under conditional terms of purchase or with any right to acquire the fee simple;

~~“District”~~district means a drainage district;

~~“Drain”~~drain includes every channel, gutter, ditch, tunnel, pipe, cutting, or passage on, above, or underground, constructed, used, or intended to be used for draining or diverting water from land, except a navigable river, and except a main or branch water-race made for the supply of any reservoir, dam, or pit for the conservation of water;

~~“former Authority”~~ means the Water Authority of Western Australia under the *Water Authority Act 1984* <sup>2</sup> before the commencement of Part 2 of the *Water Agencies Restructure (Transitional and Consequential Provisions) Act 1995* <sup>3</sup>;

~~“former Minister”~~ means a Minister administering this Act before, pursuant to the *Water Authority Act 1984* <sup>2</sup>, the former Authority became charged with the administration of functions under this Act, whether in his capacity as a Minister of the

Crown or as (pursuant to section 2 of the *Water Supply, Sewerage, and Drainage Act 1912* as read with this Act) a body corporate;

~~“Main Drain”~~ main drain means any drain declared by notice in the *Gazette* to be a main drain;

~~“officer”~~ means a member of the staff of the Corporation engaged under section 15 of the *Water Corporation Act 1995*;

~~“Ratepayer”~~ ratepayer means the owner of rateable land who is rated or liable to be rated in respect thereof;

~~“Rural”~~ rural land means land —

- (a) not within a townsite; or
- (b) within a townsite but used, or primarily used, for agricultural, pastoral, grazing, dairying, bee-keeping, orcharding, viticultural, silvicultural, or other farming purposes, or any combination of those purposes;

~~“townsite”~~ means an area that has been, or is to be regarded as having been, constituted a townsite, and given a name, under section 10 of the *Land Act 1933* <sup>4</sup>;

~~“Urban”~~ urban land means land within a townsite other than rural land;

~~“watercourse”~~ means —

- (a) any river, creek, stream or brook, whether artificially improved or altered or not;
- (b) any conduit that wholly or partially diverts a river, creek, stream or brook from its natural course and forms part of that river, creek, stream or brook; or
- (c) any natural collection of water into, through, or out of which any thing referred to in paragraph (a) or (b) flows, whether artificially improved or altered or not,

\_\_\_\_\_ in which water flows or is contained whether permanently, intermittently or occasionally, together with the bed and banks of any thing referred to in paragraph (a), (b) or (c);

~~“Work”~~ work or ~~“Drainage Works”~~ drainage works includes drains, floodgates, and walls or other defences against water

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made or used or intended to be used for draining or diverting water from land, and extends to tunnels, engines, buildings, pipes, or other things appurtenant thereto or used or intended to be used in connection therewith.

- (2) Terms not otherwise assigned a meaning under subsection (1) but referred to in section 3 of the *Water Agencies (Powers) Act 1984* as having a meaning assigned for the purposes of a relevant Act have that meaning in and for the purposes of this Act.
- (3) Other than for the purposes of section 64, on and after the coming into operation of the *Land Drainage Amendment Act 1994*<sup>1</sup> a reference in this Act to rates imposed under this Act shall be construed as a reference to rates so imposed prior to the coming into operation of that Act, and cognate words shall be construed accordingly.

*[Section 6 amended by No. 43 of 1941 s. 2; No. 63 of 1981 s. 4; No. 41 of 1983 s. 2; No. 25 of 1985 s. 220; No. 33 of 1994 s. 4; No. 73 of 1995 s. 75 and 79; No. 14 of 1996 s. 4; No. 31 of 1997 s. 61(1).]*

## Part II — General administration

[7. ~~Repealed~~Deleted by No. 73 of 1995 s. 76.]

[8. ~~Repealed~~Deleted by No. 25 of 1985 s. 222.]

### ~~9. — Drainage district~~9. Drains outside drainage districts

[~~(1) and~~, (2) ~~repealed~~deleted]

- (3) If any drain, not within the boundaries of a drainage district, is declared by Order in Council to be a State drain the area defined by that or a subsequent Order in Council to be land that benefits by the construction of the drain shall be deemed a district within the meaning of this Act.
- (3a) If any drain or works has or have been constructed, partly constructed or improved by the Crown, whether before or after the commencement of this Act, in any portion of the State at a time when such portion of the State was not comprised in a drainage district constituted under any Act repealed by this Act or under this Act, and since the construction, partial construction or improvement of such drain or works the portion of the State in which it, or they, has, or have been constructed, partly constructed or improved as aforesaid, has been or hereafter shall be constituted a drainage district under this Act, or if any drain or works has or have prior to the commencement of this subsection been constructed, partly constructed or improved by the Crown in any portion of the State which at the time of the construction, partial construction or improvement of such drain or works, was a drainage district under any Act repealed by this Act, or under this Act, and in order to resolve any doubt as to whether such drain or works aforesaid has or have either under this Act or any other Act been vested in a former Minister the former Authority or the Corporation, as the case may be, any such drain or works aforesaid shall, for all the purposes of this Act, be deemed to have been constructed under the provisions of this Act by the Corporation and shall be

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deemed to be vested in the Corporation and the provisions of this section and all other sections of this Act shall apply in relation to such drain or works accordingly.

- (4) The provisions of this section shall apply, and be deemed to have applied in respect of any district the board whereof was dissolved before the commencement of this Act.

*[Section 9 amended by No. 43 of 1941 s. 3; No. 25 of 1985 s. 223; No. 73 of 1995 s. 77.]*

[10. ~~Repealed~~Deleted by No. 25 of 1985 s. 224.]



### Part III — Drainage districts

**11. Constitution and abolition of drainage districts**

The Governor may, by Order in Council —

- (a) constitute any defined portion of the State a drainage district for the purposes of this Act;
- (b) specify the boundaries of such district;
- (c) assign a name to such district;
- (d) abolish any district.

**12. Governor in Council may by Order, alter boundaries of districts, etc.**

(1) The Governor may at any time, by Order in Council, do any of the following things —

- (a) ~~Unite~~unite any 2 or more districts so as to form one district;
- (b) ~~Subdivide~~subdivide any district and constitute thereout 2 or more districts;
- (c) ~~Excise~~excise any portion of a district;
- (d) ~~Add~~add any portion excised from a district to any other district;
- (e) ~~Extend~~extend any district by the addition thereto of any land that has not theretofore formed part of a district;
- (f) ~~Apportion~~apportion, settle, adjust, and determine the extent of the respective interests, powers and obligations of the several bodies or authorities affected in regard to any property, income, assets, rights, liabilities, or jurisdiction in any case of the union or subdivision of districts or of excision from or addition to any district;
- (g) ~~Repeal~~repeal, vary, or amend any of the provisions of any previous order relating to any district.

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- (2) When the exercise of any power in this section would be rendered necessary or possible by the exercise of any other power, then both or all such powers may be exercised by the same Order in Council.

**13.      Effect as to by-laws**

On the exercise of any of the powers conferred by section ~~twelve~~ [12](#), all by-laws in force in any district or any affected portion thereof at the date of the exercise of the power shall remain in force within the area within which they were so in force until they are lawfully repealed.

**14.      Dissolution of drainage boards**

The Governor may, by Order in Council, dissolve any drainage board heretofore constituted under section 15 of this Act as in force prior to the coming into operation of section 226 of the *Acts Amendment and Repeal (Water Authorities) Act 1985*<sup>1</sup>.

*[Section 14 inserted by No. 25 of 1985 s. 225.]*

*[Parts IV and V (s. 15-59 and the heading) ~~repealed~~[deleted](#) by No. 25 of 1985 s. 226<sup>5</sup>.]*

## Part VI — The construction and maintenance of works

### 60. Drainage works

Subject to this Act, the *Water Agencies (Powers) Act 1984* and where required by those Acts, to the approval of the Minister, the Corporation may construct and maintain drainage works within drainage districts.

*[Section 60 inserted by No. 25 of 1985 s. 227; amended by No. 73 of 1995 s. 78 and 79.]*

*[61-63. ~~Repealed~~ Deleted by No. 25 of 1985 s. 228.]*

### 64. ~~Branch drains. Corporation may authorise owner to construct branch drain~~

- (1) On the application of any owner or owners of a piece or parcel of land, or of 2 or more adjoining pieces or parcels of land within a district, the Corporation may authorise him or them to make a branch drain to communicate with any main drain for the purpose of draining his or their land, on such terms as to the Corporation may seem proper. The application, when made by more than one owner, shall state the aliquot part of the cost which is to be borne by each owner.
- (2) The Corporation may, at the request of the owner or owners, make the branch drain and do all incidental work for him or them, on such terms as may be agreed upon between him or them and the Corporation, and the cost thereof or an aliquot part thereof (determined by the agreement) shall be a debt due by the owner or each of the owners to the Corporation.
- (3) The Corporation may, with the approval of the Minister, advance to any owner or owners such sum of money as may be necessary to complete the aforesaid branch drain and work or his or their share or shares thereof, on such terms as may be agreed upon, and the amount of such advance, together with interest thereon, or on so much thereof as may remain unpaid

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for the time being, shall be a debt due from such owner or owners to the Corporation.

- (4) Whenever the Corporation shall be of opinion that the construction of a branch drain is necessary in order to drain any piece or parcel of land, or 2 or more adjoining pieces or parcels of land, in the vicinity of a main drain, the Corporation may, by notice served on the owner or the several owners thereof, require him or them to construct such drain to the satisfaction of the Corporation, and if the drain be not constructed within one month thereafter or such longer time as may be specified in the notice, the Corporation may construct or complete the branch drain and recover the cost thereof from the owner or an aliquot part (to be determined by the Corporation with the approval of the Minister) from each of the several owners in any court of competent jurisdiction. Such notice shall specify the nature and direction of the branch drain required.
- (5) For the purpose of exercising any authority conferred or complying with any requisition made under this section, the person on whom the authority is conferred or the requisition made shall (so far as necessary) have and be subject to the powers and liabilities of the Corporation set forth in section 83 of the *Water Agencies (Powers) Act 1984*.
- (6) When an owner of land became, becomes or is to become liable to a former Minister or the Corporation for the cost or any part of the cost of making any branch drain hereunder and the doing of any work incidental thereto for the purpose of draining such land or for any money advanced in respect of such a drain or work hereunder, the Corporation may, on his application, enter into an agreement with him for the payment of such cost or money (with interest) in not more than 24 quarterly instalments; the last of such instalments to become payable not more than 6 years after the commencement of the making of the branch drain.

- (7) All moneys due by any person to a former Minister or the Corporation shall carry interest at the prescribed rate, and such moneys and interest shall, unless otherwise provided by agreement, be payable on demand, and shall be a charge on the land as if they were drainage rates imposed under this Act.
- (8) Every owner of land or the several owners of 2 or more adjoining pieces or parcels of land in respect of which a branch drain has been constructed hereunder shall be liable or jointly and severally liable to keep such drain cleansed and maintained to the satisfaction of the Corporation and in the case of several owners the burden shall as between themselves be apportioned in the same way as the original liability for the cost of the drain. The burden imposed by this subsection shall run with the land and shall be binding on the owner for the time being thereof and of every portion thereof.
- (9) If default is made by any person in maintaining or cleansing any branch drain constructed under this section which he is bound to maintain or cleanse, the Corporation may cause the necessary maintenance or cleansing to be provided for or done and may recover the cost from any person in default in any court of competent jurisdiction.
- (10) Any sum of money due by any person to a former Minister or the Corporation under this section shall be recoverable by the like proceedings and with the like remedies as if it were a drainage rate imposed on such person as rateable owner of the land in respect of which the sum is due, and the provisions of Division 5 of Part VII shall, subject as hereinafter provided, apply thereto in all respects.

For the purposes of apportionment, interest and the cost of maintenance or cleansing shall be deemed to be the amount of a rate imposed for the financial year in which the interest accrued due or the maintenance or cleansing was done, as the case may be. Other moneys shall be apportionable as if they were the amount of rates for 6 years calculated from the commencement

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of the making of the drain or the doing of the work for which they are owing.

- (11) Any occupier of land who is not the owner may, with the approval of the Corporation, make or concur in or enter into any application or agreement under this section, or construct or take part in the construction of any branch drain or work hereunder or obtain any advance or do any other act hereunder as if he were the owner, and for the purposes of this subsection he shall in so acting be deemed to be the owner, and his acts shall be binding on such owner accordingly: Provided that any liability (including the liability to cleanse and maintain) which would, subject to any necessary apportionment being made, have to be borne and discharged by the occupier by reason of any such act, matter, or thing as aforesaid, if he were in fact the owner of the land during the term of his occupancy, shall be borne and discharged by such occupier, who shall indemnify any such owner in respect thereof; but nothing in this subsection shall prevent the liability being a charge on the land.
- (12) If in the performance of any duty or the exercise of any right or authority imposed on or given to him by or under this section the owner of any land is in any way obstructed or hindered by the occupier or the occupier by the owner, the one who obstructs or hinders the other shall be guilty of an offence against this Act.

Daily penalty: \$100.

*[Section 64 amended by No. 113 of 1965 s. 8; No. 38 of 1978 s. 13; No. 25 of 1985 s. 229; No. 110 of 1985 s. 118; No. 73 of 1995 s. 78 and 79 (correction in Gazette 3 Dec 1996 p. 6686).]*

[65.     ~~Repealed~~Deleted by No. 25 of 1985 s. 230.]

**65A. Benefits derived from works to be deducted from compensation payable**

The compensation payable to any person pursuant to section 62 of the *Water Agencies (Powers) Act 1984* shall be reduced by —

- (a) the amount, if any, by which the value of any property of that person wherever situate has been directly or indirectly enhanced by the construction of any drainage works in the course of the exercise of those powers; and
- (b) the value, if any, of any immediate or proximate benefit that has been gained by or become available to that person by reason of the construction, use or maintenance of any drainage works under this Act.

*[Section 65A inserted by No. 73 of 1972 s. 3; amended by No. 25 of 1985 s. 231; No. 73 of 1995 s. 79.]*

~~[66-69. *Repealed Deleted* by No. 25 of 1985 s. 232.]~~

**70. Further powers of Corporation**

The powers of the Corporation shall, within a drainage district, extend —

- (1) to cleansing, repairing, or otherwise maintaining in a due state of efficiency any drainage works or watercourse; and
- (2) subject to the approval of the Minister, to deepening, widening, straightening, or otherwise improving any watercourse or removing obstructions therefrom.

*[Section 70 amended by No. 25 of 1985 s. 233; No. 73 of 1995 s. 78.]*

**71. Interference with drains prohibited**

- (1) No person shall, without the consent of the Corporation, stop or obstruct any drain vested in or under the control of the Corporation or make any branch drain to connect with any such drain.

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Penalty: \$1 000.

[(2) ~~repealed~~*deleted*]

- (3) The court before which any person is convicted under this section may in addition to or in lieu of any penalty, order the offender to pay to the Corporation the amount of the cost or expense incurred or which in the opinion of the court will be incurred by the Corporation in removing the stoppage or obstruction or reforming or improving the drain so as to bring it into a satisfactory condition.

*[Section 71 amended by No. 113 of 1965 s. 8; No. 38 of 1978 s. 13; No. 25 of 1985 s. 234; No. 110 of 1985 s. 118; No. 73 of 1995 s. 78; No. 59 of 2004 s. 141.]*



## Part VII — Revenue

### Division 1 — Rateable property

72. ~~What shall be~~ Meaning of “rateable property” or “rateable land”

All land shall be rateable property within the meaning of this Act save as hereinafter excepted, that is to say —

- (1) Land, from time to time, declared by the Minister exempt from rating on the ground that it by its situation, configuration, or other physical causes is excluded from deriving any direct or indirect benefit from any works existing or proposed to be constructed in the district.
- (2) Land the property of the Crown and used for public purposes, or unoccupied:  
Provided that any land exempted by this paragraph shall be deemed rateable property while leased, used, or occupied for any private purpose.
- (3) Land belonging to any religious body, and used or held exclusively as or for a place of public worship, a Sunday school, a place of residence of a minister of religion, a convent, nunnery, monastery, or occupied exclusively by a religious brotherhood or sisterhood.
- (4) Land used exclusively as a public hospital, benevolent asylum, orphanage, public school, private school being the property of a religious body, public library, public museum, public art gallery, or mechanics’ institute, or lands held in trust under the *University Endowment Act 1904*<sup>6</sup>, or any amendment or re-enactment thereof.
- (5) Land used and occupied exclusively for charitable purposes.
- (6) Land vested in any ~~Board~~board under the *Parks and Reserves Act 1895*, or in trustees for agricultural or horticultural show purposes, or zoological or

acclimatisation gardens or purposes, or for public resort and recreation.

- (7) Land held or used as a cemetery~~;~~.

Provided that —

- (a) any land exempted by paragraphs (3), (4) or (5) shall be deemed rateable property while the same is leased or occupied for any private purpose; and
- (b) any land used or occupied for any of the purposes mentioned in paragraphs (4) and (5) shall be deemed to be rateable property if such property is held under lease or rented from any owner except the Crown~~;~~.

Provided, further, that no exempted land shall become liable to be rated by reason of such land being used for the purposes of any bazaar, or as a place of meeting for any religious, charitable, temperance, or benevolent object, or for a polling place at any parliamentary or other election.

*[Section 72 amended by No. 76 of 1978 s. 54; No. 110 of 1985 s. 98.]*

## **Division 2 — Valuations**

### **73. Basis of assessment**

Rates imposed under this Act shall be assessed either on —

- (a) the unimproved value~~;~~ or
- (b) the area,

of all rateable land within the district, according to the resolution of the Corporation approved by the Minister pursuant to section 88(4)~~;~~<sup>7</sup>.

*[Section 73 amended by No. 76 of 1978 s. 55; No. 25 of 1985 s. 236; No. 73 of 1995 s. 78.]*

74. ~~Value~~ Unimproved value

The Corporation shall adopt as the unimproved value of rateable land the unimproved value of that land in force under the *Valuation of Land Act 1978*.

*[Section 74 inserted by No. 76 of 1978 s. 56; amended by No. 25 of 1985 s. 235; No. 73 of 1995 s. 78.]*

[75-80. ~~Repealed~~ Deleted by No. 76 of 1978 s. 57.]

**Division 3 — Rates**

81. **Rating** ~~Records~~ records

The Corporation shall, for the purposes of this Act, compile rating records under section 69A of the *Water Agencies (Powers) Act 1984*.

*[Section 81 inserted by No. 110 of 1985 s. 101; amended by No. 73 of 1995 s. 78 and 79.]*

81A. **Rateable value**

The unimproved value set against rateable land in the rating records kept by the Corporation shall, subject to sections 99D and 99E, be the rateable value thereof for the current financial year.

*[Section 81A inserted by No. 76 of 1978 s. 58; amended by No. 25 of 1985 s. 235; No. 110 of 1985 s. 100; No. 73 of 1995 s. 78.]*

[82-84. ~~Repealed~~ Deleted by No. 110 of 1985 s. 102.]

85. **Alteration or amendment of rating records**

- (1) The Corporation may from time to time alter or amend any rating records made or to be made by —
  - (a) inserting therein the name of any person claiming and entitled to have his name therein as owner; or

- (b) inserting the name of any person who ought to have been rated; or
  - (c) striking out the name of any person who ought not to have been rated; or
  - (d) raising or reducing the sum at which any person has been rated, if it appears to the Corporation that owing to any error in entering the rate in the rating records such person has been underrated or overrated; or
  - (e) including therein any rateable property that has been omitted therefrom; or
  - (f) making any alteration or addition which, in the opinion of the Corporation, is necessary for the purpose of the exercise by the Corporation of the power conferred by section 91<sup>7</sup> or 94; or
  - (g) making such other additions, alterations, or amendments thereto or therein as will make the rating records conformable to any Act for which it is required to be used; or
  - (h) correcting or supplying any accidental error or omission.
- (2) No such alteration, addition, or amendment shall be held to void the rate.
- [(3) ~~repealed~~[deleted](#)]
- (4) The power to alter or amend rating records, as aforesaid, shall extend to the rating records for the current year, and to the rating records for the last preceding 5 years.
- (5) Every person who, by any such alteration, addition, or amendment has become rated in respect of any rateable property or otherwise affected, shall be entitled to receive notice of such alteration, addition, or amendment, and no proceeding for the recovery of any such rates from any such person shall be taken till after the expiration of one month from the service of such notice.

- (6) Any person may object to any entry in the rating records as altered or amended, or against any entry added to the rating records, or seek a review of any disallowance, wholly or in part, by the Corporation of an objection, in manner provided in Division 4, and for the purposes of objection every notice given under subsection (5) shall be deemed a notice of assessment.

*[Section 85 amended by No. 76 of 1978 s. 59; No. 25 of 1985 s. 235 and 239; No. 110 of 1985 s. 99 and 100; No. 73 of 1995 s. 78; No. 10 of 1998 s. 41(1); No. 55 of 2004 s. 573.]*

[86, 87. ~~Repealed~~Deleted by No. 25 of 1985 s. 240.]

[88-93. ~~Repealed~~Deleted by No. 33 of 1994 s. 5.]

#### **94. Application of this Part to annexed areas**

- (1) When any action has been taken under section 12 whereby any area has become incorporated in the district during the currency of the period for which any rate has been imposed therein, then the Minister may direct the Corporation that, subject to such exceptions and conditions, if any, as he may deem proper, all rateable land within the incorporated area is to be subject to the rate as from the date when such area was added to the district.
- (2) The Corporation shall thereupon make such additions to the rating records as may be necessary to complete the same for the purposes of this section, and the rate shall then be deemed to have been duly made on and in respect of such land; but the Corporation shall be entitled in respect of such land to such part of the rate only as is proportionate to the unexpired portion of the period for which the rate was imposed.

*[Section 94 amended by No. 25 of 1985 s. 235; No. 110 of 1985 s. 100; No. 73 of 1995 s. 78.]*

#### **95. Provision in case of new district**

- (1) Where, during a financial year, a drainage district is constituted, the Corporation may, with the consent of the Minister, and

subject to such exceptions and conditions (if any) as he may see fit to impose, exercise the powers and carry out the duties and obligations granted to and imposed upon the Corporation by this Part as soon after the constitution of the drainage district as, in the opinion of the Minister, shall be practicable.

- (2) For the purposes of this section the Corporation, in relation to that newly constituted drainage district, may make and levy drainage rates for the then current financial year from the date of the constitution of the district, and the maximum and minimum rate of any rate to be imposed under this section shall bear the same ratio to the maximum and minimum fixed by section 88<sup>7</sup> as the portion of the current financial year unexpired at the date of the constitution of the district bears to a full year.

*[Section 95 amended by No. 25 of 1985 s. 235 and 247; No. 73 of 1995 s. 78.]*

**96. Exemption**

The Governor may exempt any district from the operation of this Division for such time as the Governor may think fit, but particulars in writing of every exemption granted and the grounds thereof shall be laid before both Houses of Parliament.

**Division 4 — Objections and review**

*[Heading amended by No. 76 of 1978 s. 61; No. 55 of 2004 s. 574.]*

**97. Grounds of objection**

Any person may object to an entry in the rating records on any of the grounds following, that is to say —

*[(1) deleted]*

- (2) That any property included, for which he stands rated, was not rateable at the time of the completion of the rating records.

- (3) That such person was not at such time liable to be rated in respect of land for which he stands rated.
- (4) That (where the assessment is on the area) the area set out in the rating records is in excess of the actual area of the land.
- (5) That the land or a part thereof should be exempt under section 72(1).
- (6) That the grading of the land, or part thereof, under section 89(3)(a)<sup>7</sup> is not appropriate.

Provided that where any rateable property is occupied by or leased to any person who has contracted to pay the rates thereon, the occupier or lessee may object to any entry in the rating records in the same manner as if he were the owner of such property, and as if his name had been inserted in the rating records as such owner.

*[Section 97 amended by No. 76 of 1978 s. 62; No. 41 of 1983 s. 7; No. 110 of 1985 s. 100.]*

**98. Objection to entry in rating records**

- (1) An objection to an entry in the rating records shall —
  - (a) be made to the Corporation in writing;
  - (b) be served on the Corporation within 42 days after the service of a notice of assessment under section 93<sup>7</sup> of this Act based on such entry or the service of a notice under section 85(5) relating to such entry;
  - (c) describe the relevant property so as to identify it;
  - (d) identify the entry objected to; and
  - (e) set out fully and in detail the grounds of objection.
- (2) The Corporation may, for reasonable cause shown by a person entitled to make an objection, extend the time for service of the objection for such period as the Corporation considers reasonable in the circumstances.

- (3) The Corporation shall, with all reasonable despatch, consider any objection and may either disallow it or allow it, wholly or in part.
- (4) In the case of an objection under section 72(1), the Corporation may make such decision thereon as shall be just.
- (5) The Corporation shall promptly serve upon the person by whom the objection was made written notice of its decision on the objection and a brief statement of its reasons for that decision.
- (6) If the Corporation decides to allow an objection, wholly or in part, it shall also advise the person by whom the objection was made of any consequent amendment of the relevant entry in the rating records; and if the Corporation decides to disallow an objection, wholly or in part, it shall also advise the person of the time within which and the manner in which a review of the decision ~~maybe~~may be sought.

*[Section 98 inserted by No. 76 of 1978 s. 63; amended by No. 25 of 1985 s. 235 and 248; No. 110 of 1985 s. 108; No. 73 of 1995 s. 78; No. 55 of 2004 s. 575.]*

**99. ~~Appeal against~~Review of decision of Corporation on objection**

- (1) Any person who is dissatisfied with the decision of the Corporation on an objection by that person may, within 42 days (or such further period as the Corporation shall, for reasonable cause shown by the person, allow) after service of notice of the decision of the Corporation, serve on the Corporation a notice requiring that the Corporation refer the relevant entry in the rating records to the State Administrative Tribunal for a review.
- (2) Upon receipt of such notice the Corporation shall promptly refer the relevant entry in the rating records to the State Administrative Tribunal for a review.
- (3) The Corporation is to effect the reference by forwarding the notice to the executive officer of the State Administrative



Tribunal together with the objection and a copy certified by or on behalf of the Corporation of —

- (a) the relevant entry in the rating records; and
- (b) the reasons, if any, for the entry.

*[Section 99 inserted by No. 76 of 1978 s. 64; amended by No. 25 of 1985 s. 235; No. 110 of 1985 s. 109; No. 73 of 1995 s. 78; No. 55 of 2004 s. 576.]*

**99A. ~~Appeal against~~Review of refusal to extend time for objection or ~~appeal~~review**

- (1) A person who is dissatisfied with a decision of the Corporation to refuse to extend the time for service of an objection against an entry in the rating records or for service of a notice requiring the Corporation to refer the relevant entry in the rating records to the State Administrative Tribunal for a review may serve on the Corporation a notice requiring it to refer the decision to refuse to extend time to the State Administrative Tribunal for a review.
- (2) Upon receipt of such notice the Corporation shall promptly refer the decision to the State Administrative Tribunal for a review.
- (3) The Corporation is to effect the reference by forwarding the notice to the executive officer of the State Administrative Tribunal together with the objection and a copy certified by or on behalf of the Corporation of —
  - (a) the decision to refuse to extend the time; and
  - (b) the reasons, if any, for the decision.

*[Section 99A inserted by No. 76 of 1978 s. 65; amended by No. 25 of 1985 s. 235; No. 110 of 1985 s. 100; No. 73 of 1995 s. 78; No. 55 of 2004 s. 577.]*

**99AA. New matters raised on review**

- (1) Upon a review by the State Administrative Tribunal on a reference under section 99 or 99A, the State Administrative Tribunal may consider —
  - (a) grounds in addition to those stated in the notice of objection; and
  - (b) reasons in addition to any reasons previously given for the Corporation's decision that is under review.
- (2) The State Administrative Tribunal is to ensure, by adjournment or otherwise, that each party and any other person entitled to be heard has a reasonable opportunity of properly considering and responding to any new ground or reason that the State Administrative Tribunal proposes to consider in accordance with subsection (1).

*[Section 99AA inserted by No. 55 of 2004 s. 578.]*

**99AB. Written reasons for certain determinations to be given and published**

- (1) If the State Administrative Tribunal considers that an order it makes determining a matter coming before it on a reference under section 99 or 99A is of general interest or significance, it is to prepare written reasons for its order and give a copy of the reasons to each party and publish the written reasons.
- (2) The obligation imposed by subsection (1) is in addition to, and does not derogate from, any obligation of the State Administrative Tribunal under the *State Administrative Tribunal Act 2004*.

*[Section 99AB inserted by No. 55 of 2004 s. 578.]*

**99B. Objections and ~~appeals~~reviews against valuations**

There shall be no objection or review in respect of a valuation of rateable land appearing in the rating records, except in accordance with the *Valuation of Land Act 1978*.

*[Section 99B inserted by No. 76 of 1978 s. 65; amended by No. 110 of 1985 s. 100; No. 55 of 2004 s. 579.]*

**99C. Objection ~~or appeal~~ not to affect liability to pay rates**

The making of an objection, whether in respect of an entry in the rating records or a valuation of land, shall not affect the liability of the ratepayer to pay any rates assessed under this Act pending determination of the objection.

*[Section 99C inserted by No. 76 of 1978 s. 65; amended by No. 110 of 1985 s. 110; No. 55 of 2004 s. 580.]*

**99D. Corporation to amend rating records and assessment consequent on objection or ~~appeal~~review**

- (1) The Corporation shall make any amendment of an entry in the rating records which shall be necessary in consequence of the allowance, wholly or in part, of an objection under this Act or under the *Valuation of Land Act 1978* in respect of such entry or in consequence of a review by the State Administrative Tribunal.
- (2) The Corporation shall issue a notice of an amended assessment of rates under this Act when amendment of an assessment is necessary under subsection (1).

*[Section 99D inserted by No. 76 of 1978 s. 65; amended by No. 25 of 1985 s. 235; No. 110 of 1985 s. 100; No. 73 of 1995 s. 78; No. 55 of 2004 s. 581.]*

**99E. Reassessment of unimproved value after rating records made up**

- (1) Where, as a result of an interim valuation, a determination of the unimproved value of rateable land comes into force under the *Valuation of Land Act 1978* during the currency of any financial year, and that value is an amount different from the amount stated in the rating records for that year as the unimproved value of that land, the Corporation shall adopt the former value and amend the entry in the rating records accordingly.
- (2) Where the Corporation amends the rating records under subsection (1), it may, on the basis of that amendment, amend the assessment of rates payable on the land in respect of the portion of the current financial year unexpired as at the date the determination of the unimproved value comes into force under the *Valuation of Land Act 1978*.

*[Section 99E inserted by No. 76 of 1978 s. 65; amended by No. 25 of 1985 s. 235; No. 110 of 1985 s. 100; No. 73 of 1995 s. 78.]*

**Division 5 — Liability for and recovery of rates**

**100. Who is liable for rates**

- (1) All rates imposed under this Act and entered in any rating records shall (together with the costs of any proceedings for the recovery thereof) be a charge on the land rated, ranking *pari passu* with rates imposed under the *Local Government Act 1995*, and shall be recoverable by the Corporation from —
  - (a) the owner at the time of the completion of the rating records;
  - (b) any person who whilst the rates are unpaid becomes the owner of the land rated, or any part thereof.
- (2) The amount of the rates referred to in subsection (1) may instead in the first instance, at the option of the Corporation, be recovered from the occupier of the land rated.

- (3) Unless the Crown is the owner, any amount of such rates paid by an occupier shall, in the absence of special agreement to the contrary, be afterwards recoverable by the occupier from the owner and any receipt for rates so paid may be tendered to and shall be accepted by the owner in satisfaction, to the extent of the amount specified in the receipt, of any rent due to the owner.

*[Section 100 amended by No. 38 of 1978 s. 10; No. 25 of 1985 s. 235 and 249; No. 110 of 1985 s. 100 and 111; No. 73 of 1995 s. 78; No. 14 of 1996 s. 4.]*

**100A. Payment of rates**

Drainage rates shall be payable in accordance with the by-laws.

*[Section 100A inserted by No. 110 of 1985 s. 112.]*

**100B. Interest on rates**

Where any rates imposed by the Corporation under this Act have remained unpaid for the period prescribed by the by-laws in relation thereto after they became due and payable the amount then unpaid shall thereafter bear interest at the rate and in the manner prescribed in the by-laws and such interest may be recovered in the same manner as rates are recoverable.

*[Section 100B inserted by No. 110 of 1985 s. 112; amended by No. 73 of 1995 s. 78.]*

**101. Payment of rates by mortgagee**

If a mortgagee of rateable land pays any rates accrued thereon under this Act or any Act heretofore in force including any incidental costs, charges, and expenses charged on such land, the amount so paid by the mortgagee shall be deemed to be part of, or added to the principal moneys advanced by him under the mortgage, and shall be recoverable as such, with interest accordingly.

**102. Persons liable to be resorted to in succession**

An unsatisfied judgment or order of any court for the recovery of any rates from any person shall not be a bar to the recovery thereof from any other person liable under the provisions of this Act to the payment thereof.

**103. Apportionment of rates**

Rates recoverable under this Act shall for the purposes of this section be apportionable between successive owners or occupiers in respect of time as if they accrued due from day to day during the period for which they were imposed, and shall also be deemed to be apportionable between owners or occupiers of several portions of the land rated according to the respective values or areas (as the case may require) of such portions; and any person who is or has been an owner or occupier of rated land and whose rates or whose apportioned part of the rates in respect thereof have or has directly or indirectly been wholly or partly paid by any other person in accordance with this Act (whether during or after the period for which the rates were imposed), shall be liable to reimburse such person the amount so paid; but nothing in this section shall affect the liability of any person to the Corporation.

*[Section 103 amended by No. 25 of 1985 s. 235; No. 110 of 1985 s. 113; No. 73 of 1995 s. 78.]*

**104. Recovery of rates in arrears**

The Corporation may recover any rates that are in arrears in a court of competent jurisdiction as if they are a debt due to the Corporation on the date when the rates are payable under the by-laws.

*[Section 104 inserted by No. 59 of 2004 s. 141.]*

**105. Discounts and additional charges**

- (1) A person who is liable to pay money due for drainage rates —

- (a) may, if payment in full of the total amount due is made within such period or by such date as is prescribed for the purpose, be allowed a discount of such a kind as is prescribed;
  - (b) may pay the amount due by instalments to the extent and in the manner provided for in the by-laws, but a person who chooses to pay by instalments an amount due may be required also to pay such interest or additional charges as are prescribed; and
  - (c) shall, subject to paragraph (b), if he does not pay the money in full within the period or by the date when payment is due, be liable to pay such interest or penalties as are prescribed.
- (2) Any additional charge, interest or penalty imposed under this section in respect of moneys due for drainage rates, shall be payable and recoverable as though it were a drainage rate lawfully levied by the Corporation.
- (3) The Corporation is authorised at discretion to waive or reduce any additional charge or interest imposed in relation to the payment of an account where the Corporation is satisfied that there is proper cause so to do.

*[Section 105 inserted by No. 25 of 1985 s. 251; amended by No. 110 of 1985 s. 114; No. 73 of 1995 s. 78.]*

*[106, 107. ~~Repealed~~ Deleted by No. 25 of 1985 s. 252.]*

**108. ~~Rating records~~ Proceedings to recover rates — evidence and defences**

- (1) In any proceeding to recover or consequent on the recovering of the amount due in respect of any rate, the rating records verified by an officer of the Corporation authorised by the Corporation, and all entries made or purporting to be made therein, or certified copies thereof or extracts therefrom, certified as correct by writing under the hand of an officer of the Corporation

authorised by the Corporation shall be *prima facie* evidence of the contents of the rating records and of the due striking of such rate, and of the obligation of the person charged with the amount payable in respect of such rate to pay the same without any evidence that the notices required by this Act or other provisions of this Act or the *Water Agencies (Powers) Act 1984* have been given or complied with.

- (2) In any such proceeding it shall be competent for the party sued to rely on the defence that he was not at any material time the owner or occupier of the land rated, but, subject hereto, and except as hereinbefore provided, he shall not raise by way of defence any matter which might have been raised on an objection, and such first-mentioned defence shall not be raised by any party who has already unsuccessfully raised it on an objection, or where an application has been made to the State Administrative Tribunal for a review following the disallowance of an objection, in proceedings before the State Administrative Tribunal.

*[Section 108 amended by No. 76 of 1978 s. 67; No. 25 of 1985 s. 253; No. 110 of 1985 s. 115; No. 73 of 1995 s. 78 and 79; No. 55 of 2004 s. 582.]*

**109. Jurisdiction not ousted by reason of question of title being raised**

No jurisdiction otherwise competent to entertain such a proceeding as is mentioned in the last preceding section shall be ousted on the ground that a question of title to land is raised therein. But no order or judgment in any such proceeding shall be admissible in any court as evidence of title.

*[Section 109 amended by No. 76 of 1978 s. 68.]*

**[110. ~~Repealed~~ Deleted** by No. 25 of 1985 s. 254.]



**111. List of defaulters may be published**

The Corporation may from time to time cause to be published in a newspaper a list of all persons who are in arrear in the payment of the amount due in respect of any rate, whether made under this or any other Act, and of the amounts due by them respectively, and in respect of what rateable lands.

*[Section 111 amended by No. 25 of 1985 s. 235; No. 73 of 1995 s. 78.]*

**112. Arrears may be written off**

The Corporation may, with the approval of the Minister, write off arrears of rates due in respect of any rateable land.

*[Section 112 amended by No. 25 of 1985 s. 235; No. 73 of 1995 s. 78.]*

**113. Incorporation of provisions of *Country Areas Water Supply Act 1947* relating to recovery of rates**

Divisions 2 and 3 of Part VII of the *Country Areas Water Supply Act 1947* shall apply for the purposes of this Act as though a reference in those Divisions to water rates were a reference to drainage rates under this Act.

*[Section 113 inserted by No. 25 of 1985 s. 255.]*

*[114. ~~Repealed~~Deleted by No. 25 of 1985 s. 255.]*

*[Heading to Division 6 ~~repealed~~deleted by No. 110 of 1985 s. 116.]*

*[114A, 114B. ~~Repealed~~Deleted by No. 25 of 1985 s. 256.]*

*[Part VIII (s. 115-137 and the heading) ~~repealed~~deleted by No. 25 of 1985 s. 257.]*

*[Part IX (s. 138-147 and the heading) ~~repealed~~deleted by No. 25 of 1985 s. 258.]*

## **Part X — By-laws and regulations**

### **148. By-laws**

Without prejudice to the generality of that power, the power conferred by section 34 of the *Water Agencies (Powers) Act 1984* to make by-laws may be exercised for the purposes of this Act with respect to the following matters, that is to say —

- (1) Prescribing discounts, additional charges, interest and penalties payable in respect of payments for drainage rates.
- (2) Prescribing fees payable for the issue upon request of statements as to moneys due or paid for rates under this Act, and making provision as to the recovery of such fees.

~~[(3) and]~~ (4) *deleted*

- (4a) Providing for the payment of fees for the issue of permits and prescribing the method or methods by which the amount of such fees shall be determined.

~~[(5) and]~~ (6) *deleted*

- (7) Prescribing forms for the purposes of this Act.

*[Section 148 amended by No. 43 of 1941 s. 9; No. 38 of 1978 s. 12; No. 25 of 1985 s. 259; No. 110 of 1985 s. 117; No. 33 of 1994 s. 6; No. 73 of 1995 s. 79.]*

~~[149-151. Repealed Deleted by No. 25 of 1985 s. 260.]~~

## **Part XI — Offences and miscellaneous**

### **152. Obstructing Corporation or officers in performance of duty**

Every person who wilfully obstructs the Corporation, any officer of the Corporation or any person authorised by the Corporation in the performance of any act or thing which the Corporation, that officer or that person is authorised or required to do in the execution of this Act or any by-law or regulation made for the purposes of this Act shall be liable to a penalty not exceeding \$500.

*[Section 152 amended by No. 113 of 1965 s. 8; No. 38 of 1978 s. 13; No. 25 of 1985 s. 262; No. 110 of 1985 s. 118; No. 73 of 1995 s. 78.]*

### **153. Penalty for obstructing drains, etc.**

Every person who —

- (a) wilfully obstructs any drain or work; or
- (b) having obstructed a drain or work, neglects or refuses to remove the obstruction when required so to do by the Corporation,

shall be liable to a penalty not exceeding \$500, together with the costs incurred by the Corporation in removing such obstruction:

Provided that this section shall not exempt any such person from the provisions of any law relating to common nuisances.

*[Section 153 amended by No. 113 of 1965 s. 8; No. 38 of 1978 s. 13; No. 25 of 1985 s. 261; No. 110 of 1985 s. 118; No. 73 of 1995 s. 78.]*

### **154. Injury to property of Corporation**

Any person who shall deface, damage, or injure in any way, or without lawful authority use or occupy any land, work, or property whatsoever owned by, vested in, or under the care, control, or management of the Corporation shall be liable to a

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penalty not exceeding \$500, and may be ordered by the convicting court to pay to the Corporation in addition to such penalty, the cost and expense of making good any damage or replacing any property destroyed: Provided that this section shall not protect or exempt any such person from the provisions of any law relating to injuries to property.

*[Section 154 amended by No. 113 of 1965 s. 8; No. 38 of 1978 s. 13; No. 25 of 1985 s. 261; No. 110 of 1985 s. 118; No. 73 of 1995 s. 78; No. 59 of 2004 s. 141.]*

**155.      Penalty for refusing to give up possession of works**

Any person having charge of any works vested in or under the control of the Corporation who refuses, on lawful demand, to give up peaceable and quiet possession of the same to any person lawfully entitled to possession thereof, [shall be guilty of an offence.](#)

Penalty: \$2 000.

*[Section 155 amended by No. 113 of 1965 s. 8; No. 38 of 1978 s. 13; No. 25 of 1985 s. 261; No. 110 of 1985 s. 118; No. 73 of 1995 s. 78; No. 50 of 2003 s. 75(2).]*

**156.      Offences**

When by this Act, or by any by-law, regulation, or order made or given for the purposes of this Act, any act is directed to be done, or forbidden to be done, and such act shall, contrary to such direction, be left undone, or contrary to such prohibition be done, then any person by whose default or act such direction or prohibition is so contravened shall be deemed guilty of an offence against this Act.

*[Section 156 amended by No. 25 of 1985 s. 263.]*

**157. Penalties**

Every person guilty of an offence against this Act, or of any by-law or regulation made for the purposes of this Act, shall, for every such offence, if no other penalty is imposed, be liable to a penalty not exceeding \$2 000.

*[Section 157 amended by No. 113 of 1965 s. 8; No. 38 of 1978 s. 13; No. 25 of 1985 s. 263; No. 110 of 1985 s. 118.]*

[158. ~~Repealed~~Deleted by No. 59 of 2004 s. 141.]

[159. ~~Repealed~~Deleted by No. 25 of 1985 s. 264.]

**160. Penalties recovered to be paid to Corporation**

All penalties recovered for offences against this Act, or any by-law thereunder, shall be paid to the Corporation.

*[Section 160 amended by No. 25 of 1985 s. 261; No. 73 of 1995 s. 78.]*

**161. Corporation may be represented by an officer**

In any proceedings in any court of summary jurisdiction, any officer of the Corporation may represent the Corporation in all respects as if he were the party concerned.

*[Section 161 amended by No. 25 of 1985 s. 265; No. 73 of 1995 s. 78; No. 59 of 2004 s. 141.]*

**162. Property may be stated in complaint, etc., to be the property of the Corporation**

In any proceedings to be instituted in relation to any land, property, or thing belonging to, vested in, or under the care, control, or management of the Corporation, it shall be sufficient to state generally the land, property, or thing in respect of which such proceedings shall be instituted to be the property of the Corporation; and for the purpose of all legal proceedings, all drains, works, reserves, and other property and things

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whatsoever vested in or placed under the care, control, or management of the Corporation shall be deemed to be the property of the Corporation.

*[Section 162 amended by No. 25 of 1985 s. 261 and 266; No. 73 of 1995 s. 78.]*

[163.    ~~Repealed~~Deleted by No. 73 of 1954 s. 5.]

[164, 164A.    ~~Repealed~~Deleted by No. 25 of 1985 s. 267.]

**165.    Charges need not be registered**

Any charge imposed or arising by or under this Act in respect of any property shall be valid and effectual for all purposes and against all persons without registration, notwithstanding the provisions of the *Transfer of Land Act 1893*, or any other Act.

**166.    ~~Notices~~ Form of notices and demands**

All notices and demands under this Act may be in writing or in print, or partly in writing and partly in print.

**167.    Service of documents on owners and occupiers**

- (1) When any document is required to be served under or for any of the purposes of this Act or any by-law or regulation made for the purposes of this Act on any owner or occupier whose name is unknown to the Corporation, or whose address is unknown to the Corporation, or who is absent from the State, the document may be served by placing it on or over some conspicuous part of the premises referred to therein, and by publishing a copy thereof 3 times with an interval of a week between each publication in the *Gazette* and a newspaper usually circulating in the district, and in the first case the document may be addressed to such owner or occupier by the description of the “owner” or “occupier” of the premises (naming them) to which the document refers without further name or description.

- (2) If there are more owners or occupiers than one it shall be sufficient if the document is served on one of them, and is addressed to that one with the addition of the words “and others” or “and another”, as the case may require.
- (3) Non-service on the owner shall not affect the validity of service on the occupier, and non-service on the occupier shall not affect the validity of service on the owner.
- (4) In all proceedings in which the service of a document on a party to the proceedings has to be proved, the party shall be deemed to have received notice to produce it; and, until the contrary is shown, the same and its due service may be sufficiently proved by the production of what purports to be a copy, bearing what purports to be a certificate under the hand of the officer authorised to issue the original that the copy is a true copy of the original, and that the original was served on the date specified in the certificate.
- (5) The validity of any document or of the service thereof shall not be affected by any error, misdescription, or irregularity which is not calculated to mislead, or which in fact does not mislead.
- (6) For the purposes of this section “**document**” includes any requisition, notice, order or demand, or any summons or proceeding under the *Criminal Procedure Act 2004*, issued or made for any of the purposes of this Act or any by-law or regulation made for the purposes of this Act and “**serve**” includes “deliver”, “give”, and “send”.
- (7) Any prosecution of an offence under this Act or any by-law or regulation made for the purposes of this Act against any owner or occupier whose name is unknown to the Corporation may be commenced against him by the description of “owner” or “occupier” of the land to which the charge refers without further name or description.

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*[Section 167 amended by No. 25 of 1985 s. 261 and 268; No. 73 of 1995 s. 78; No. 59 of 2004 s. 141; No. 84 of 2004 s. 78 and 80.]*

**168. Notices and demands binding on persons claiming under owner or occupier**

All notices and demands duly given to or made upon any owner or occupier shall be binding upon all persons claiming by, from, or under such owner or occupier.

*[169, 170.     ~~Repealed~~Deleted by No. 25 of 1985 s. 269.]*

**171. Saving of civil remedy**

The institution of any proceedings, or the conviction of any person for an offence against this Act, shall not affect any remedy which the Corporation or any person aggrieved may be entitled to in any civil proceedings.

*[Section 171 amended by No. 25 of 1985 s. 261; No. 73 of 1995 s. 78.]*

*[172.     ~~Repealed~~Deleted by No. 25 of 1985 s. 270.]*

**173. Proof of ownership or occupancy**

(1) In any legal proceedings under this Act, in addition to any other method of proof available —

- (a) evidence that the person proceeded against is rated as owner or occupier in respect of any land; or
- (b) evidence by the certificate of —
  - (i) the Registrar of Deeds or his deputy, that any person appears from any memorial of registration of any deed, conveyance or other instrument to be the owner of any land;
  - (ii) the Registrar of Titles, or any assistant registrar, that any person appears from search made in the



records of the Western Australian Land Information Authority established by the *Land Information Authority Act 2006* section 5 to be owner of any land; or

- (iii) the chief executive officer of the department principally assisting in the administration of the *Land Administration Act 1997*, or of the department principally assisting in the administration of the *Mining Act 1978*, that any person is registered in the relevant department as the owner, lessee, or occupier of any land,

shall, until the contrary is proved, be evidence that such person is the owner, lessee, or occupier, as the case may be, of such land.

- (2) All courts and all persons having by law, or by consent of parties, authority to hear, receive, and examine evidence shall, for the purposes of this Act, take judicial notice of the signature attached to such certificate.
- (3) The averment in any claim, prosecution notice, or other document in any proceedings instituted for the purposes of this Act that any person is or was at any time the owner or occupier of any land, shall be deemed to be proved in the absence of proof of the contrary.

*[Section 173 amended by No. 113 of 1965 s. 8; No. 38 of 1978 s. 13; No. 25 of 1985 s. 271; No. 81 of 1996 s. 153(2); No. 31 of 1997 s. 61(2); No. 10 of 1998 s. 41(2); No. 84 of 2004 s. 80; No. 60 of 2006 s. 141.]*

*[174-176. ~~Repealed~~ Deleted by No. 25 of 1985 s. 272.]*

**177. Act not to affect rights of ~~the~~ Crown**

Any ~~act~~ or thing which, if this Act were not in force, might be done in the exercise of any right reserved to the King or any person representing him and relating to or affecting land alienated from the Crown, may still be done in the exercise of

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such right, notwithstanding that authority to do the same is given by this Act to any person whomsoever.

[Schedule ~~repealed~~deleted by No. 25 of 1985 s. 273.]

## Notes

- <sup>1</sup> This [reprint](#) is a compilation [as at 5 April 2007](#) of the *Land Drainage Act 1925* and includes the amendments made by the other written laws referred to in the following table<sup>13</sup>. The table also contains information about any reprint.

## Compilation table

Short title	Number and year	Assent	Commencement
<i>Land Drainage Act 1925</i>	43 of 1925 ( <a href="#">16 Geo. V No. 43</a> )	31 Dec 1925	1 Jul 1926 (see s. 1 and <i>Gazette</i> 7 May 1926 p. 945)
<del><i>Limitation Act 1935</i></del> <del>s. 48A(1)</del> <del><i>Land Drainage Act Amendment Act 1941</i></del>	<del>3543 of 1935</del> <del>(as amended by 1941</del> <del>5 &amp; 6</del> <del>Geo. VI</del> <del>No. 73 of 1954 s. 543)</del>	<del>72 Jan 1936</del> <del>942</del>	<del>Relevant amendments (see s. 48A and Second Sch.<sup>10</sup>) took effect on 1 Mar 1955 (see No. 73 of 1954 s. 2 and <i>Gazette</i> 18 Feb 1955 p. 343)</del> <del>2 Jan 1942</del>
<del><i>Land Drainage Act Amendment Act 1941</i></del> <del><i>Limitation Act 1935</i> s. 48A(1)</del>	<del>43 of 1941</del> <del>35 of 1935</del> <del>(26 Geo. V No. 35)</del> <del>(as amended by No. 73 of 1954 s. 8)</del>	<del>214 Jan 1942</del> <del>1955</del>	<del>2 Jan 1942</del> <del>Relevant amendments (see s. 48A and Second Sch.<sup>8</sup>) took effect on 1 Mar 1955 (see No. 73 of 1954 s. 2 and <i>Gazette</i> 18 Feb 1955 p. 343)</del>
<i>Decimal Currency Act 1965</i>	113 of 1965	21 Dec 1965	<a href="#">Act other than s. 4-9: 21 Dec 1965 (see s. 2(1));</a> <a href="#">s. 4-9: 14 Feb 1966 (see s. 2(2));</a> <a href="#">balance: 21 Dec 1965 (see s. 2(1)(2))</a>
<b>Reprint of the <i>Land Drainage Act 1925</i> approved 22 May 1967 in Vol. 21 of Reprinted Acts (includes amendments listed above)</b>			
<i>Land Drainage Act Amendment Act 1972</i>	73 of 1972	16 Nov 1972	16 Nov 1972
<i>Land Drainage Act Amendment Act 1977</i>	14 of 1977	11 Oct 1977	11 Oct 1977
<i>Land Drainage Act Amendment Act 1978</i>	38 of 1978	29 Aug 1978	Act other than s. 5-7 and 13: 29 Aug 1978 (see s. 2(1)); s. 5-7 and 13: 1 Dec 1978 (see s. 2(2) and <i>Gazette</i> 17 Nov 1978 p. 4276)

## Land Drainage Act 1925

Short title	Number and year	Assent	Commencement
<i>Acts Amendment and Repeal (Valuation of Land) Act 1978</i> Pt. VIII	76 of 1978	20 Oct 1978	1 Jul 1979 (see s. 2 and <i>Gazette</i> 11 May 1979 p. 1211)
<i>Acts Amendment (Statutory Designations) and Validation Act 1981</i> s. 2 and 4	63 of 1981	13 Oct 1981	13 Oct 1981
<i>Land Drainage Amendment Act 1983</i> <sup>11, 12</sup>	41 of 1983	1 Dec 1983	1 Dec 1983
<i>Acts Amendment and Repeal (Water Authorities) Act 1985</i> Pt. VIII	25 of 1985	6 May 1985	1 Jul 1985 (see s. 2 and <i>Gazette</i> 7 Jun 1985 p. 1931)
<i>Acts Amendment (Water Authorities) Act 1985</i> Pt. VII	110 of 1985	17 Dec 1985	Pt. VII, other than s. 111(b) and 113: 14 Mar 1986 (see s. 2 and <i>Gazette</i> 14 Mar 1986 p. 726); s. 111(b) and 113: 1 Jul 1986 (see s. 2 and <i>Gazette</i> 14 Mar 1986 p. 726)
<i>Financial Administration Legislation Amendment Act 1993</i> s. 11	6 of 1993	27 Aug 1993	1 Jul 1993 (see s. 2(1))
<i>Land Drainage Amendment Act 1994</i>	33 of 1994	8 Jul 1994	8 Jul 1994 (see s. 2)
<i>Water Agencies Restructure (Transitional and Consequential Provisions) Act 1995</i> Pt. 5	73 of 1995	27 Dec 1995	1 Jan 1996 (see s. 2(2) and <i>Gazette</i> 29 Dec 1995 p. 6291)
<i>Local Government (Consequential Amendments) Act 1996</i> s. 4	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2(1))
<b>Reprint of the Land Drainage Act 1925 as at 15 Jul 1996</b> (includes amendment listed above) ( <del>Correction to reprint</del> <a href="#">correction</a> in <i>Gazette</i> 3 Dec 1996 p. 6686)			
<i>Transfer of Land Amendment Act 1996</i> s. 153(2)	81 of 1996	14 Nov 1996	14 Nov 1996 (see s. 2(1))
<i>Acts Amendment (Land Administration) Act 1997</i> Pt. 36	31 of 1997	3 Oct 1997	30 Mar 1998 (see s. 2 and <i>Gazette</i> 27 Mar 1998 p. 1765)
<i>Statutes (Repeals and</i>	10 of 1998	30 Apr 1998	30 Apr 1998 (see s. 2(1))

Short title	Number and year	Assent	Commencement
<i>Minor Amendments) Act</i> (No. 2) 1998 s. 41			
<b>Reprint 3: The Land Drainage Act 1925 as at 21 Mar 2003</b> (includes amendment listed above)			
<i>Sentencing Legislation Amendment and Repeal Act 2003 s. 75</i>	50 of 2003	9 Jul 2003	15 May 2004 (see s. 2 and <i>Gazette</i> 14 May 2004 p. 1445)
<i>Courts Legislation Amendment and Repeal Act 2004 s. 141</i>	59 of 2004	23 Nov 2004	1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)
<i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 2 - Div. 68 <sup>+5, +6, 10, 11</sup></i>	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004 s. 78 and 80</i>	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))
<i>Land Information Authority Act 2006 s. 141</i>	60 of 2006	16 Nov 2006	1 Jan 2007 (see <sup>+s.</sup> 2(1) and <i>Gazette</i> 8 Dec 2006 p. 5369)

**Reprint 4: The Land Drainage Act 1925 as at 5 Apr 2007 (includes amendment listed above)**

<sup>2</sup> Now known as the *Water Agencies (Powers) Act 1984*. Short title changed by the *Water Agencies Restructure (Transitional and Consequential Provisions) Act 1995* s. 7.

<sup>3</sup> The *Water Agencies Restructure (Transitional and Consequential Provisions) Act 1995* Pt. 2 commenced 1 Jan 1996.

<sup>4</sup> Repealed by the *Land Administration Act 1997*.

<sup>5</sup> The *Acts Amendment and Repeal (Water Authorities) Act 1985* s. 217 and 226 read as follows:

“

**217. Principal Act**

In this Part, the *Land Drainage Act 1925* is referred to as the principal Act.

**226. Part IV repealed**

The principal Act is amended by repealing Part IV comprising sections 15 to 59 and the heading.

This section has been construed as repealing Parts IV and V.

<sup>6</sup> Repealed by the *University Legislation Amendment Act 2000*.

<sup>7</sup> This section was repealed by the *Land Drainage Amendment Act 1994*.

<sup>8</sup> ~~Footnote no longer applicable.~~

<sup>9</sup> ~~Footnote no longer applicable.~~

<sup>408</sup> Section 48A and the Second Schedule were inserted by ~~No. 73 of the~~ [Limitation Act Amendment Act 1954](#) s. 8.

<sup>419</sup> The *Land Drainage Amendment Act 1983* s. 4(2) ~~reads as follows:~~

“

~~(2) Regulations made by the Governor for the purposes of section 89(2) of the principal Act, inserted by subsection (1) of this section, and any power exercised under section 89(3) by a drainage board, or the Minister acting under section 9 of the principal Act, may be made or exercised to have~~ [6\(2\) are transitional provisions that are of no further effect in respect of the financial year which commenced on 1 July 1983 or any subsequent financial year.](#)

”

<sup>12</sup> ~~The *Land Drainage Amendment Act 1983* s. 6(2) reads as follows:~~

“

~~(2) A notice under section 90A of the principal Act, inserted by subsection (1) of this section, may be given by a drainage board, or the Minister acting under section 9 of the principal Act, to have effect in respect of the financial year which commenced on 1 July 1983 or any subsequent financial year.~~

”

<sup>13</sup> ~~See also the following relevant Orders:~~

~~*Water Authority (Appointed Day) Order 1985* in *Gazette* 31 May 1985 p. 1897.~~

~~*Water Authority (Appointed Day) Order (No. 2) 1985* in *Gazette* 21 June 1985 p. 2240.~~

<sup>14</sup> ~~Footnote no longer applicable.~~

<sup>4510</sup> The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Pt. 5, the *State Administrative Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.

<sup>4611</sup> The *State Administrative Tribunal Regulations 2004* r. 54 reads as follows:

“

**54. Land Drainage Act 1925**

- (1) In this regulation —
- “**commencement day**” means the day on which the *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* Part 2 Division 68 comes into operation;
  - “**Corporation**” has the meaning given to that term in the LD Act section 6(1);
  - “**the LD Act**” means the *Land Drainage Act 1925*.
- (2) If the Corporation receives, before the commencement day, a notice in accordance with the LD Act section 99(1) (as in force when the notice was received by the Corporation) but does not before the commencement day refer the objection referred to in the notice to a Land Valuation Tribunal as an appeal, on and after the commencement day the Corporation must refer the relevant entry in the records to the State Administrative Tribunal for a review as if the notice were a notice served on the Corporation under the LD Act section 99(1).
- (3) If the Corporation receives, before the commencement day, a notice in accordance with the LD Act section 99A(1) (as in force when the notice was received by the Corporation) but does not before the commencement day refer a decision referred to in the notice to a Land Valuation Tribunal as an appeal, on and after the commencement day the Corporation must refer the decision to refuse to extend time to the State Administrative Tribunal for a review as if the notice were a notice served on the Corporation under the LD Act section 99A(1).
- (4) If a notice has been given under the LD Act section 98(6) before the commencement day, on or after the commencement day the notice is to be taken to refer to the time within which and the manner in which a review of the decision may be made be sought.

”