

The Goldfields Water Supply Act, 1902.

(2° Edward VII, No. 33.)

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SCHEDULES.



Western Australia.

ANNO SECUNDO

EDWARDI VII. REGIS.

No. XXXIII.

AN ACT to constitute the Goldfields Water Supply Board; to define the Powers and Duties of the Board: and for other purposes incidental thereto.

[Assented to, 20th December, 1902.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.—PRELIMINARY.

1. THIS Act may be cited as the Goldfields Water Supply Act, 1902, and shall come into operation on a day to be fixed by proclamation.

Short title, commencement, and division.

It is divided into Parts, as follows:—

PART I.—PRELIMINARY, ss. 1-2.

PART II.—ADMINISTRATION—

(1.) The Board, ss. 3-17;

(2.) Officers of the Board, ss. 18-19.

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- PART III.—THE CONSTRUCTION AND MANAGEMENT OF WORKS, ss. 20-26.
- PART IV.—THE SUPPLY OF WATER, ss. 27-39.
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- PART VI.—WATER RATES—
(1.) The Rate Book, ss. 51-61;
(2.) Appeals, ss. 62-67;
(3.) Making of Rates, ss. 68-71.
- PART VII.—PAYMENT OF RATES AND FOR WATER SUPPLIED, ss. 72-84.
- PART VIII.—BORROWING POWERS, ss. 85-98.
- PART IX.—ACCOUNTS AND AUDIT, ss. 99-104.
- PART X.—BY-LAWS AND GENERAL PROVISIONS, ss. 105-124.

Interpretation.

2. IN this Act, unless the contrary appears,—
- “Board” means the Goldfields Water Supply Board constituted under this Act.
- “Chairman” includes the person acting as chairman for the time being.
- “District,” in relation to a local authority, means the area of a municipality or a district of a road board.
- “Fitting” includes a pipe, meter, or other apparatus.
- “Land” includes messuages, tenements, hereditaments, houses, and buildings.
- “Local authority” means the council of a municipality or the board of a road district.
- “Occupier” means the person in actual occupation of any land, and, if there is no occupier, the person entitled to possession.
- “Owner” means the person for the time being entitled to receive the rent of any land, whether on his own account or as trustee, attorney, or agent for any other person, or who would be entitled to receive the rent if the land were let at a rent.
- “Person” includes a corporation, sole or aggregate.
- “Pipe” includes a main or other pipe, stop-cock, water cock, syphon plug, or other apparatus used for or in connection with the supply of water.

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“ Prescribed ” means prescribed by this Act or the by-laws thereunder.

“ Rateable land ” includes all land, except land belonging to the Crown, and which is not used or occupied otherwise than for public purposes.

“ Water area ” means an area constituted and defined under section twenty.

“ Waterworks ” means any reservoir, tank, building, aqueduct, engine, pipe, or other work, with the appurtenances thereto.

“ Works ” has the same meaning as “ waterworks. ”

PART II.—ADMINISTRATION.

1. *The Board.*

3. THE Governor may appoint two persons who, with the Minister for Works for the time being, shall constitute a Board by the name of the Goldfields Water Supply Board, for carrying this Act into execution. The Board.

4. THE Board shall be a body corporate, with perpetual succession, a common seal, and power to hold land. Incorporation of Board.

5. JUDICIAL notice shall be taken of the incorporation and common seal of the Board, and every deed, instrument, or writing, when sealed, shall be admissible in evidence on the mere production thereof, without any other or further proof of the making of such deed, instrument, or writing. Seal.

6. EACH appointed member of the Board shall hold office for the term of three years, and, at the expiration of his term of office, shall be eligible for re-appointment for a like term of three years. Term of office.

7. THE Minister for Works shall be the Chairman of the Board. Chairman.

8. OF the two appointed members of the Board, one shall be an engineer, and may receive a salary not exceeding One thousand two hundred and fifty pounds a year. The other appointed member may receive a salary not exceeding Seven hundred and fifty pounds a year. Remuneration of members.

9. FOR the conduct of business, any two members of the Board shall be a quorum, and shall have all the powers and authorities vested in the Board. Quorum.

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- Proceedings of Board not invalidated by vacancy. **10.** NO act or proceeding of the Board shall be invalidated or prejudiced by reason only of the fact that at the time when such proceeding or act was taken, done, or commenced, there was a vacancy in the office of any member.
- Vacancies. **11.** ON the occurrence of any vacancy in the office of an appointed member of the Board, the Governor may appoint a person to the vacant office, whose term of office shall be for his predecessor's unexpired term of office.
- Deputy members of Board. **12.** IN the case of illness, suspension, or absence of any member of the Board, the Governor may appoint some person to act as the deputy of such member during such illness, suspension, or absence; and, until such appointment is terminated by notice in the *Government Gazette*, every person so appointed shall, while so acting, have all the powers and perform all the duties of a member of the Board.
- Acting chairman. **13.** IN the case of the illness or absence of the chairman, the Governor may temporarily appoint a member of the Board acting chairman, who, while so acting, shall have all the powers and may perform all the duties of the chairman.
- Tenure of office. **14.** (1.) THE Governor may suspend an appointed member of the Board from his office—
 (a.) For misbehaviour or incompetence; or
 (b.) If he becomes bankrupt, or applies to take the benefit of any Act for the relief of bankrupt or insolvent debtors; or
 (c.) If he becomes incapable of performing his duties; or
 (d.) If he becomes concerned or interested in any contract made by or on behalf of the Board, or participates or claims to be entitled to participate in the profits thereof, or in any benefit or emolument arising therefrom: But this subsection shall not extend to an interest as a shareholder in an incorporated company of at least twenty members.
 (e.) If he engages in any employment outside the duties of his office; or absents himself from duty for a period of fourteen consecutive days, except on leave granted by the Governor.
- Removal from office. **15.** (1.) THE Minister shall cause to be laid before Parliament a full statement of the grounds of suspension within seven days after such suspension, if Parliament is sitting, and, when Parliament is not sitting, within seven days after the next sitting.

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(2.) A member of the Board suspended shall be restored to office if both Houses of Parliament, within thirty days from the time when such statement has been laid before Parliament, declare by resolution that the said member ought to be restored to office.

(3.) Subject as aforesaid, the Governor may remove an appointed member from his office.

16. THE Board shall keep minutes of their proceedings, in such manner and form as the Governor shall direct.

Minutes of proceedings.

17. THE Board shall make an annual report to the Governor of their proceedings, and such report shall be laid before both Houses of Parliament.

Annual report.

2. Officers of the Board.

18. (1.) THE Board may appoint a secretary and such other officers and servants as may be necessary for the execution of this Act at such salaries or wages as to the Board may seem fit, and may dismiss any such officer or servant.

Appointment of officers and servants.

19. BEFORE any officer or servant entrusted with the custody of money or other property shall enter upon the duties of his office, the Board shall take from him sufficient security for the faithful execution thereof.

Certain officers to give security.

PART III.—THE CONSTRUCTION AND MANAGEMENT OF WORKS.

20. THE Governor may, by Order in Council,—

The water area.

- (1.) Constitute and define the boundaries of a water area for the purposes of this Act.
- (2.) From time to time alter the boundaries of the water area.
- (3.) Divide the water area into districts and define the boundaries of districts.

21. THE waterworks constructed under the authority of the Coolgardie Goldfields Water Supply Act, 1896, so far as the same are situated within the water area, and all works constructed by the Board under the authority of this Act, shall be under the management and control of the Board; and such works, and all water which at any time is therein, shall be deemed the property of the Board.

Waterworks placed under the management and control of Board.

22. THE Board may, with the approval of the Governor, construct works for the distribution and supply of water within the

Board may construct works.

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water area, or any district thereof, and for such purpose shall be deemed a local authority within the meaning of the Public Works Act, 1902.

Application of Public Works Act, 1902.

Power to enter land and break up roads, etc.

23. THE Board and their servants and any person acting with the authority of the Board—

- (1.) May enter upon any land and open and break up the soil thereof, and may open and break up the soil and pavement of any road, street, or place;
- (2.) May lay down and place, and maintain, in, on, or under any land, or any road, railway, street, or place, mains, conduits, service pipes, fittings, and appliances, and from time to time repair, alter, and remove the same, and may remove or use any earth or materials; and
- (3.) May do any other acts and things which may be deemed necessary or expedient.

Compensation.

24. IN the exercise by the Board of the powers conferred by this Act, as little damage as possible shall be done, and the Board shall make compensation for any actual damage done or occasioned thereby, which, unless settled by agreement, shall be determined in the manner provided by Part III. of the Public Works Act, 1902.

Roads, etc., to be reinstated.

25. (1.) WHEN the Board open or break up the soil of any land, or the soil or pavement of any road, street, or other place, they shall—

- (a.) With all convenient speed complete the work and fill in the ground and make good the land, road, street, or place; and
- (b.) While any road, street, or place, continues open or broken up, cause it to be fenced or guarded and a sufficient light to be kept there at night.

(2.) If the Board make default in complying with this section, reasonable compensation shall be made to any person for any damage actually sustained in consequence of such default.

Local authorities to give particulars as to levels.

26. (1.) EVERY local authority shall, when requested by the Board, give particulars of the ascertained levels of any street or road in which it is proposed to lay any main or other pipe.

(2.) The local authority shall give to the Board at least forty-eight hours' notice, in writing, of its intention to alter the level of any street or road in which pipes are laid down.

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(3.) Thereupon the Board may lower any pipe, and may raise or lower the fittings and covers of any stop cock, valve, or fire plug, and the cost of so doing shall be a debt due by the local authority to the Board, and may be recovered in any Court of competent jurisdiction.

(4.) Any local authority failing to give the notice required by subsection two, shall be liable to a penalty not exceeding Fifty pounds.

PART IV.—THE SUPPLY OF WATER.

27. THE Board may make and levy water rates, in the manner hereinafter provided; and such rates may be made and levied in the water area generally, or in any district thereof.

Water rates.

28. THE Board may, instead of making and levying a water rate, and may in any case, sell and supply water by measure, the quantity consumed being ascertained by a meter fixed on the land of the consumer, or by any other prescribed means.

Supply of water by measure.

29. THE owner or occupier of land rated under this Act shall, as far as practicable, and subject to the provisions of this Act, be supplied with the quantity of water to which he is entitled in respect of the rates; and, on payment of the prescribed charge, with such further quantity as he may take by measure.

Supply to rated land.

30. ON receiving from the owner or occupier of any land rated under this Act a written request for a supply of water, the Board shall provide, lay down to the boundary of the land, and fix the communication pipe and fittings necessary for complying with such request.

Request for supply to rated land.

31. THE owner or occupier of land not rated under this Act may, in writing, request the Board to supply water.

Supply to land not rated.

In such case the Board may, if they think fit, comply with the request, and, on such terms as may be agreed upon, provide, lay down, and fix all necessary pipes and fittings for supplying water to such land.

32. (1.) THE Board may cause a meter to be attached to any pipe on any land supplied with water under this Act.

The Board may supply meter and charge by measure.

(2.) When a meter is so attached, the owner or occupier shall not receive a supply of water except by means of the meter, unless the Board consent to its removal, or to a supply of water to a part of the land otherwise than by means of the meter.

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(3.) The Board may charge the prescribed rent for the use of the meter, and the cost of fixing, removing, or replacing it and its fittings whenever in the opinion of the Board necessary.

33. WHENEVER a meter is used—

- (a.) The quantity of water shown by the index or register shall be taken *prima facie* to be the quantity of water which has actually passed through the meter and has been supplied; and
- (b.) A certificate purporting to be signed by the chairman or an officer of the Board stating the quantity so shown shall, in any proceeding in which the quantity of water is in question, be *prima facie* evidence of the quantity of water supplied.

Record of meter to be *prima facie* evidence of water supplied.

34. THE Board may turn or cut off the water supply—

- (a.) If the land to which water is supplied is unoccupied; or
- (b.) When any rates or moneys due for water supplied, or agreed to be supplied, or any rent or charges for any meter or other fittings remain unpaid for seven days after they become due; or
- (c.) If the occupier refuses to permit a meter to be attached to any pipe on his land; or
- (d.) If the occupier commits or permits any breach of any of the provisions of this Act or the by-laws thereunder.

Water may be cut off from unoccupied premises, etc.

Turning or cutting off the water shall be a cumulative remedy for enforcing payment of water rates or other moneys due, and shall not relieve the owner or occupier from liability in respect thereof.

35. THE Board may fix upon main or other pipes within the water area, at the request and at the expense of any local authority, fire plugs for the supply of water for extinguishing fire.

Fire plugs.

36. THE Board shall, at the expense of the local authority, keep such fire plugs in effective order, and shall deposit the keys thereof at such stations as may be directed by the local authority.

Repair of fire plugs.

37. IT shall not be compulsory on the Board to supply or to continue to supply water to any person; and the Board shall not be liable to any penalty or damages for not supplying or continuing to supply water.

Supply of water not compulsory.

38. (1.) THE Board may, with the approval of the Governor, contract with any company, association of companies, or other

The Board may supply water by contract.

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consumer (hereinafter called the purchaser) for the sale of water, by measure, on such terms and conditions as to the Board may seem fit.

(2.) By such contract the Board may—

(a.) Authorise the purchaser to supply water to any occupiers of land or other persons within any area (not being a municipality or townsite) to be defined in the contract, at prices to be approved by the Board.

(b.) Exempt the purchaser and the occupiers of any land within the area defined in the contract, from the payment of rates under this Act.

39. (1.) ANY local authority may contract with the Board, on such terms as to the Board may seem fit, to take water by measure for the purposes of a water supply within the district of such local authority.

The Board may supply local authority.

(2.) Every such contract shall be subject to the approval of the Governor.

(3.) Upon such contract being made the local authority shall, within the district, have all the powers of the Board relating to—

(a.) The construction and management of works ;

(b.) The supply of water ;

(c.) The protection of works and fittings, and the prevention of waste ;

(d.) The making of rates ;

(e.) The recovery of rates and of payment for water supplied ;

(f.) Making and enforcing by-laws.

PART V.—THE PROTECTION OF WORKS AND FITTINGS AND THE PREVENTION OF WASTE.

40. EVERY person supplied with water under this Act shall keep the service or communication pipe and all prescribed fittings within or attached to his land in good repair, so as to effectually prevent the water from running to waste.

Duty to keep fittings in repair.

41. NO person shall—

(a.) Connect a meter, pipe, or other fitting through which water is, or is intended to be supplied ; or

(b.) Disconnect a meter, pipe, or other fitting from any other meter, pipe, or other fitting through which water is, or is intended to be supplied,

Fittings not to be connected or disconnected without notice.

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unless he has given the prescribed notice of his intention so to do, and has received the consent, in writing, of the Board or of an authorised officer in that behalf.

Power to enter and examine whether water is wasted, etc.

42. (1.) ANY officer of the Board may, at all reasonable times, enter upon any land to which water is supplied under this Act, and may examine and ascertain—

- (a.) What quantity of water has been consumed there ;
- (b.) Whether there has been or is any waste, misuse, fouling, or contamination of the water ;
- (c.) Whether all fittings, with the materials and mode of arrangement thereof, used or intended to be used are in accordance with the by-laws, and in proper order and repair ;

(2.) When a fitting is not in accordance with the by-laws, or is out of proper order and repair—

- (a.) The officer of the Board may repair or remove it, and if necessary substitute others in its stead, or may alter the mode of arrangement, as the case requires ; and
- (b.) Any expense incurred by the Board in that behalf shall, on demand, be repaid by the owner or occupier of the land, and if not repaid on demand may be recovered by the Board in the same manner in which water rates may be recovered.

Protection of fittings.

43. (1.) NO person shall remove, alter, repair, renew, or uncover any pipe or other fitting which is the property of the Board until the prescribed notice has been given to the Board, and the authority of the Board, in writing, obtained.

(2.) No such pipe or fitting shall be subject or liable to be seized or taken in execution by process of law, or under distress for rent.

Power to enter on land and fix fittings.

44. (1.) ANY person authorised by the Board may at all reasonable times enter upon any land to which water is or is intended to be supplied under this Act, and may place and fix thereon and attach thereto, wherever the Board think proper, such fittings as the Board may think expedient, and may there do all other acts and execute all other works which the Board may think fit.

(2.) Any person so authorised may at all reasonable times enter upon such lands and examine, remove, repair, alter, or replace all or any of such fittings.

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45. IF any person supplied with water by the Board does any of the following things for the purpose of taking water in a manner not authorised by this Act, that is to say—

Penalty for using unauthorised fittings.

- (1.) Uses in, places upon, or attaches to the land, or permits to be so used, placed, or fitted, any fitting, instrument, or thing not authorised by the Board; or
- (2.) Alters, misuses, injures, or removes any authorised fitting, except for the purpose of necessary repair;

he shall forfeit and pay to the Board a sum not exceeding Fifty pounds, and shall, in addition, be liable to pay to the Board any damages sustained by the Board in respect of any injury done to their property, and the value of any water wasted, misused, or unduly consumed.

46. IF any person supplied with water by the Board causes or suffers any pipe, receptacle, fitting, or other apparatus, used in connection with water supplied to him by the Board to be out of repair without repairing it within a reasonable time, or to be so used or contrived that the water supplied to him by the Board is, or is likely to be wasted, misused, unduly consumed, or contaminated, or so as to allow the return of foul air or any noisome or impure matter into a pipe belonging to the Board, or connected with any such pipe, he shall forfeit and pay to the Board a sum not exceeding Ten pounds.

Penalty for not repairing fittings.

47. IF any person, not being authorised by the Board,—

- (1.) Wilfully or carelessly breaks, injures, opens or shuts, or wilfully permits to be broken, injured, or opened or shut, any lock, sluice, cock, valve, pipe, or other authorised fitting, or any work belonging to the Board;
- (2.) Flushes or draws off the water from any reservoir or other work of the Board; or
- (3.) Does any other wilful act, or wilfully permits to be done any act whereby such water is wasted;

Penalty for destroying valves, etc.

he shall forfeit and pay to the Board a sum not exceeding Fifty pounds, and shall, in addition, be liable to pay to the Board any damage sustained in respect thereof, as well for the value of the water wasted as in repairing the fittings or other parts of the works; and the amount of such damage shall be ascertained, determined, and recovered in the same manner as such forfeited sum.

48. IF any person uses or consumes, or permits to be used or consumed, any water belonging to the Board, contrary to the provisions of this Act and the By-laws thereunder, he shall forfeit and pay to the Board a sum not exceeding Fifty pounds.

Penalty for taking, etc., water in contravention of this Act.

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Fraudulent taking of water.

49. ANY person who fraudulently takes, or procures to be taken, any water belonging to the Board from a reservoir main or pipe belonging to the Board, or from any pipe leading to or from any such reservoir main or pipe, is guilty of a misdemeanour, and liable to imprisonment, with or without hard labour, for any term not exceeding two years.

Other consequences of contravening this Act or the By-laws.

50. IF any person supplied with water by the Board—

- (1.) Does, or causes or permits to be done, anything in contravention of the provisions of this Act or of the by-laws; or
- (2.) Omits to do, or prevents being done, anything which under any of those provisions ought to be done for the prevention of the waste, misuse, undue consumption of the water of the Board;

the Board may (without prejudice to any other remedy against him) cut off any of the pipes by or through which water is supplied by the Board to him or for his use, and may discontinue the supply of water to him so long as the cause of injury remains or is not remedied; but such cutting off shall not affect or take away his liability to payment of rates.

PART VI.—WATER RATES.

1. The Rate Book.

Rate book.

51. WHENEVER the Board determine to make and levy water rates, the Board shall cause a rate book to be kept in the form of the First Schedule, and shall enter therein all rateable land in the water area, or any district thereof, with the several particulars indicated in the said schedule, and in the appropriate column shall state the estimated net annual value of such land.

Valuation.

52. SUCH annual value may, at the option of the Board, be either—

- (a.) The current valuation of the local authority in whose district the land is situated; or
- (b.) The yearly rent at which the land might reasonably be expected to let, free from all usual tenant's rates and taxes, and deducting therefrom the probable annual average cost of insurance and other expenses (if any) necessary to maintain such property in a state to command such rent; or

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- (c.) An amount not exceeding Seven pounds ten shillings per centum on the capital value of the land in fee simple.

Provided that—

- (a.) In estimating the annual or capital value of mines, no regard shall be had to the minerals therein or the mining machinery, whether fixed to the soil or not, or to buildings used exclusively for the housing of such machinery ; and Valuation of mines.
- (b.) The valuation shall be made on the assumption (if necessary to be made) that the sub-letting of the land is authorised by law.

53. ANY person in occupation of any portion of the surface of a gold-mining lease or mineral lease shall be deemed an occupier, and liable to be rated in respect of such occupation notwithstanding any want of title to occupy the same. Rating of persons residing on mining leases.

54. THE rate book shall be made up as early as may be in each year, and notice thereof shall forthwith be published in the *Government Gazette* and in at least one newspaper circulating in the water area. Rate book to be open to inspection.

The rate book shall at all reasonable times be open to inspection by any ratepayer.

55. ANY person authorised by the chairman, in writing, may, as of right, at all reasonable times inspect, free of charge, all valuations, lists, and rate books of any local authority relating to any land situate in the water area, and may take copies or extracts from them. Board may inspect rate books of local authorities.

56. ALL persons having the custody of such valuations, lists, or rate books shall, at all reasonable times and without any fee or charge, afford to the Board, and all persons authorised by the chairman, free access to the same. Access to be given.

57. EVERY person having the custody of a valuation list or rate book of any local authority which a person authorised by the Board is entitled to inspect, who neglects or refuses to permit any such person to inspect the same free of charge, or to make or take copies or extracts therefrom, shall be liable to a penalty not exceeding Twenty pounds. Penalty for not permitting inspection.

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Rateable value. **58.** THE net annual value set against all rateable land in the rate book shall, subject to appeal as hereinafter provided, be the rateable value thereof for the year beginning on the first day of January last preceding.

Rate book may be amended. **59.** THE Board may from time to time amend the rate book by inserting the particulars of any rateable property omitted therefrom, or by substituting for the name of any person erroneously inserted as the owner or occupier of any land the name of the true owner or occupier, and by correcting any error that may need rectification.

Notice of amendment to be given. **60.** WITHIN fourteen days of any such amendment, the Board shall cause notice to be given to every person affected by the same, and every such person shall have the same right of appeal from such amendment as he would have had if the amendment had appeared in the rate book as made up.

Board may use previous year's rate book. **61.** THE Board may, instead of causing a new rate book to be made up in any year, use the rate book of the last or any previous year, with such alterations and additions as may appear necessary.

2. Appeals.

Grounds of appeal against assessment. **62.** ANY person may appeal against any valuation in the rate book, or any alteration thereof or addition thereto; but no appeal shall be allowed when the valuation does not exceed the current valuation of the same land by the local authority.

Appeals, how made. **63.** APPEALS shall be made to the Board, and from the decision of the Board there may be a further appeal to a Local Court having jurisdiction within the water area, as hereinafter provided.

Appeals to the Board. **64.** (1.) EVERY appeal to the Board shall be by notice setting out the grounds of appeal, in the form or to the effect of the Second Schedule.

(2.) The notice of appeal shall be given to the chairman or secretary to the Board within one month after publication of notice of the making up of the rate book, or of the receipt by the appellant of notice of an amendment thereof.

(3.) No appeal shall be entertained unless the appellant deposits in the hands of the chairman or secretary the amount of the rates then due and payable in respect of the valuation complained of.

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(4.) Notice of the day appointed by the Board for the hearing of such appeal shall be given to the appellant six days at least before the day of hearing, in the form or to the effect of the Third Schedule.

65. EVERY appeal to a Local Court from the decision of the Board shall be commenced by notice setting out the grounds of the appeal, in the form in the Fourth Schedule or to the like effect—

Appeals to the Local Court from decisions of the Board.

- (1.) The notice shall, within ten days after the decision appealed from, be served on the chairman or secretary to the Board and the clerk of the Local Court.
- (2.) The appeal shall come on for hearing at the sitting of the Local Court next after ten days from the service of such notice on the clerk of the Local Court.

66. (1.) ON the hearing of all appeals, the rate book shall be produced; and the Board, or the Local Court on appeal from the Board, on the day of hearing, or at any adjournment thereof, may make such order as shall be just, and shall cause any alterations or additions occasioned by such order to be made in the rate book by the chairman or secretary of the Board, if the appeal is to the Board, or by the clerk of the Court, if the appeal is to the Court.

Court may order costs.

(2.) On any appeal to the Local Court, the Court may make such order as may seem just for the payment of the costs of the appeal, and may determine the amount of such costs; and payment of the same may be enforced in the same manner as a judgment of the Local Court.

67. THE decision of the Local Court on any appeal shall be final.

Decision of Court final.

3. The Making of Rates.

68. WATER rates may be made in respect of all land, whether actually occupied or not, situated wholly or partly within one hundred yards of any main or other pipe from which the Board is prepared to supply water.

Land subject to water rate.

69. A WATER rate shall not in any one year exceed Two shillings in the pound on the annual rateable value of the land rated.

Amount of rate.

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But the Board may make and levy a minimum rate of the prescribed amount upon any land the annual rate of which would not exceed One pound.

Manner of making rate.

70. WHENEVER any rate is ordered by the Board to be made and levied, the chairman shall, on a vacant page of the rate book, to be left blank for the purpose, enter a memorandum of such order, and shall sign the same, and cause notice thereof to be published in the *Government Gazette* and a newspaper usually circulating in the water area.

On the publication of such notice, the said rate shall, subject to any by-law as to the time and mode of payment, become due and payable by the occupier or owner of the land rated as hereinafter provided.

Gazette evidence of striking of rate.

71. THE production of a copy of the *Government Gazette* containing a notice of the striking of a rate shall be conclusive evidence of the due striking, making, and publication thereof.

PART VII.—PAYMENT OF RATES AND FOR WATER SUPPLIED.

Water rates. when payable.

72. WATER rates shall be payable in advance in accordance with the by-laws for the time being.

Payment for water supplied by measure.

73. PAYMENT for water supplied or agreed to be supplied by measure shall become due and shall be made at the times and in manner prescribed.

Payment by measure when land rated.

74. WHERE water is supplied by measure to the owner or occupier of land rated under this Act, all water in excess of the prescribed quantity which the owner or occupier is entitled to receive in respect of the rate shall be paid for by him at the prescribed price.

Recovery of rates by distress.

75. (1.) IF any person liable to pay money due for rates or for water supplied by measure under the provisions of this Act fails to pay the same for the space of fourteen days after demand thereof made, in writing, by the secretary or any authorised collector, the chairman may issue his warrant for levying the amount with costs, by distress and sale of the goods and chattels found on the land in respect of which the money is due, in accordance with the law for the time being relating to distress for rent.

(2.) A warrant of distress may be in the form or to the effect of the Fifth Schedule.

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(3.) The chairman may include in any one warrant any number of persons liable to pay rates.

(4.) The fees prescribed in the Sixth Schedule shall be payable on every distress.

76. ANY person appointed by the Board as their bailiff for the purpose of levying rates, or money due for water supplied, by distress and sale, shall have power and authority to sell by public auction any goods and chattels seized under warrant of distress without taking out a license as an auctioneer.

Bailiff may sell by auction without license.

77. INSTEAD of proceeding by distress and sale, or in case no sufficient distress can be found on the premises, the Board may, fourteen days after demand thereof, in writing, by the secretary or any authorised collector, and notwithstanding any change of occupation or ownership, recover any money due for rates or for water supplied by measure from the occupier or owner for the time being of the land in respect of which the money is due, by complaint before two Justices, or by action in any Court of competent jurisdiction.

Recovery by action or complaint.

78. IN any action or other proceeding against the owner of land for the recovery of money due for rates or water supplied, it shall not be necessary to prove service upon the occupier of any demand for payment.

In action against owner, proof of demand on occupier not necessary.

79. ANY unsatisfied judgment or order of any Court against any person for the recovery of money due for rates or water supplied shall not be a bar to the recovery thereof from any other person liable under the provisions of this Act to the payment thereof.

Persons liable may be resorted to in succession.

80. IN any proceeding to levy and recover or consequent on the levying or recovering of any rate under the provisions of this Act, the rate book of the Board, and all entries purporting to be made therein in manner by this Act directed, by the production thereof alone, or a certified copy thereof or extract therefrom signed by the chairman and sealed with the seal of the Board, shall be *prima facie* evidence of such rate and of the contents thereof, without any evidence that the notices required by or other requirements of this Act have been given or complied with.

Rate books to be evidence.

81. (1.) WHEN the owner of any land has paid any money due for rates or water supplied, which, as between the owner and occupier, should have been paid by the occupier, the owner may recover the sum so paid on demand from the occupier as arrears of rent could be recovered from the occupier by the owner.

Recovery of rates paid by owner from occupier.

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Recovery of rates paid by occupier from owner.

(2.) When the occupier of land has paid any money due for rates or water supplied, which, as between such occupier and the owner, should have been paid by the owner, the occupier may deduct the amount paid from any rent due or to become due to the owner, or may recover the amount from the owner in any Court of competent jurisdiction.

Apportionment of rates between successive owners or occupiers.

82. WHEN an occupier or owner ceases to be the occupier or owner of the land in respect of which a rate is made, before the end of the period in respect of which such rate was made, such occupier or owner shall, as between himself and the succeeding occupier or owner, be liable to pay a portion only of the rate payable for the whole of such period proportionate to the time during which he continued to be the occupier or owner.

Any person who is the occupier or owner of the land during the remainder of the period shall, as between himself and the preceding occupier or owner, be liable to pay a portion of such rate in proportion to the time during which he is such occupier or owner.

But any rate made in respect of such property, and any money due for water supplied, shall continue in force, and may be recovered by the Board, from the owner or occupier for the time being, without regard to any change in the occupation or ownership.

Premises may be sold for arrears of rates, etc., remaining unpaid for twelve months.

83. (1.) IF money due for rates or water supplied under this Act remains unpaid for the term of twelve months in respect of any land, the Board may cause a notice, in the form of the Seventh Schedule, to be published in the *Government Gazette*, and in a newspaper usually circulating in the water area district, three times, at intervals of not less than one week between any two publications.

(2.) If the money due and expenses are not paid at or before the expiration of the time specified in such notice, the Board may present a petition to the Supreme Court, stating the imposition of the rate on the said land, the supply of water (if any) and amount due for the same, the non-payment thereof, and the publication of the notices aforesaid.

(3.) Any Judge of the Supreme Court, on being satisfied of the proof of such circumstances, shall order the said land or such part thereof as may be deemed sufficient to satisfy the money due, expenses, and costs to be sold by some person to be named in such order by public auction, and the proceeds of such sale (after deducting the expenses thereof) to be paid to the Registrar of the Supreme Court.

(4.) The Registrar, on receiving the same, shall, out of such moneys, pay to the Board the amount due as aforesaid, and of all

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rates imposed on such land and due in respect thereof up to the day of such sale, and all expenses and costs incurred by the Board in the proceedings, and shall hold the surplus (if any) in trust for such person or persons as may prove himself or themselves entitled to the same.

(5.) The Judge may, at the time of making any such order, give any directions that he may deem proper touching the time and place of such sale, and the notices to be given thereof.

(6.) No neglect of any of such directions shall in anywise invalidate any such sale; but the person or persons neglecting the same may be ordered by the said Court to make compensation, to be assessed as the said Court may direct, to any person injured by such neglect.

(7.) A certificate of sale of any rateable land, according to the form in the Eighth Schedule, made out by the person directed in the order of Court to sell the same, shall be given to the purchaser; and the Registrar of Titles, the Under Secretary for Lands, or the Under Secretary for Mines, as the case may be, on production of the said certificate, and of an office copy of the said order, and on payment of the proper fees, shall register the certificate of sale in like manner as a transfer of the land, and issue to such purchaser a certificate or other instrument of title free from all encumbrances.

Certificate of sale.

84. ANY person ordered to sell any such land as aforesaid may act as an auctioneer in respect of any such sale, without any license authorising him so to act.

Person ordered to sell need not have auctioneer's license.

PART VIII.—BORROWING POWERS.

85. THE Board may, with the approval of the Governor, borrow money—

Power to borrow money.

- (a.) For the construction of works for the distribution and supply of water within the water area;
- (b.) To liquidate the principal moneys due on any previous loan to the Board;
- (c.) For any other purpose approved by the Governor.

86. SUCH money may be raised by the issue of debentures.

Debentures.

87. DEBENTURES issued under this Act may be in the form of the Ninth Schedule, or to the effect thereof, and shall be numbered consecutively.

Form of debentures.

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- Repayment of debentures. 88. EVERY debenture shall be repayable at a place and time therein named, such time being not longer than thirty years from the issue thereof.
- Payment of interest. 89. THE interest on every debenture shall be payable half-yearly or otherwise, and separate coupons for each sum so payable, bearing the same number as the debenture, shall be annexed thereto.
- Debentures and coupons transferable by delivery. 90. DEBENTURES and coupons respectively shall be transferable by delivery, and payment to any person in possession of any such debenture or coupon of the sum named therein shall discharge the Board of all liability in respect of such debenture or coupon.
- Debentures and interest a charge on property and revenues of Board. 91. ALL debentures and the interest thereon shall be a charge upon the works constructed by the Board under the authority of this Act, and upon the revenues of the Board.
- Sinking fund to be created. 92. BEFORE raising any loan, the Board shall make provision for the repayment thereof by the creation of a sinking fund.
- Appropriation of revenue for sinking fund. 93. FOR such purpose the Board may, with the approval of the Governor, permanently appropriate any part of the revenues of the Board.
- Investment of sinking fund. 94. ALL moneys so appropriated as a sinking fund, and all interest accruing thereon, shall be invested by the Colonial Treasurer in the joint names of the Colonial Treasurer and the Board, in such securities as the Colonial Treasurer may think fit.
- Accumulated sinking fund to be applied in payment of loan. 95. THE accumulated sinking fund shall be applied in payment of the principal of the loan when the same becomes payable, or may be applied from time to time in the redemption of debentures issued.
- Savings Bank funds may be invested in debentures. 96. THE Colonial Treasurer, with the authority of the Governor, may invest Post Office Savings Bank funds in debentures issued by the Board under the authority of this Act.
- Advances to the Board by Colonial Treasurer. 97. THE Colonial Treasurer may, out of any money appropriated by Parliament, advance money to the Board for the purposes of this Act.
- Repayment of advances. 98. SUCH advances shall be repaid by the Board at such times, and with or without interest, as may be agreed upon between the Colonial Treasurer and the Board.

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PART IX.—ACCOUNTS AND AUDIT.

99. ALL rates and other moneys levied and collected by the Board— Collection of rates, etc.

- (1.) Shall be collected and received by them or their authorised officers for the use of His Majesty, and paid into the Treasury to the credit of an account to be called the Goldfields Water Supply Board account; and
- (2.) Shall be chargeable with all lawful expenditure of the Board, and with the contribution to any sinking fund created in respect of any loans raised by the Board.
- (3.) The balance shall be applied as the Governor may direct, and, in the absence of any direction, shall be carried to the Consolidated Revenue Fund.

100. ALL drafts upon the Treasury for expenditure by the Board shall be by orders signed by two members of the Board, one of whom shall be the chairman or acting chairman, and countersigned by the secretary. Expenditure.

101. THE Board shall cause books to be provided and kept, and true and regular accounts to be entered therein of all sums received and paid by them under this Act, and of the several purposes for which such sums shall have been received and paid. Accounts.

102. THE Board shall cause their accounts to be balanced twice in every year to the thirtieth day of June and the thirty-first day of December, or such other dates as the Governor may direct. Accounts to be balanced.

103. (1.) ALL such books shall be open to the inspection of the Auditor General, and any person authorised by the Minister or Auditor General to inspect the same, and all such persons may take copies or extracts therefrom. Books may be inspected.

(2.) Any clerk or other person having the custody of the books who does not, on demand, permit any person as aforesaid to examine the said books, and take such copies or extracts therefrom, shall forfeit and pay for every such offence a sum not exceeding Five pounds.

104. THE accounts of all moneys received and disbursed by the Board shall be audited at least twice in every year by the Auditor General, who shall have, in respect to such accounts, all the powers conferred on him by the Audit Act, 1891, and any amendment thereof. Accounts to be audited and furnished.

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The Board shall, twice at least in every year, furnish to the Governor a true copy of the accounts so audited as aforesaid, together with a particular statement of all moneys received by the Board, and of all expenditure incurred by them.

Copies of such accounts and of such statement shall be laid before both Houses of Parliament, if then sitting, or if not then sitting, at the next ensuing session thereof.

PART X.—BY-LAWS AND GENERAL PROVISIONS.

- 105.** THE Board may, subject to the provisions of this Act, make, alter, and repeal by-laws with respect to the following matters:—
- | | |
|--|---|
| Power to make by-laws. | (1.) The general conduct of their business and proceedings. |
| Regulating business of Board.
Duties of officers. | (2.) The control, supervision, guidance, and duties of their officers and servants. |
| Construction and use of works. | (3.) The construction, maintenance, repair, management, and use of the works and other property of the Board. |
| Protecting water and works. | (4.) Protecting the water, and the works, pipes, and fittings from trespass and injury. |
| Preventing waste, etc. | (5.) Preventing and remedying the waste, misuse, undue consumption, fouling, or contamination of water contained in or supplied from the works or otherwise under the control of the Board. |
| Rates. | (6.) Making, levying, and collecting rates and fixing a minimum rate to be paid in respect of land under a prescribed value. |
| Quantity of water. | (7.) Prescribing the quantity of water which a consumer may take in respect of any rates paid for any given period. |
| Scale of charges for water supplied by measure. | (8.) Prescribing scales of charges for water supplied by measure, and the minimum quantity of water to be charged for, and the rent for the use of meters. |
| Repair of fittings. | (9.) Compelling persons using water supplied by the Board to keep their pipes and fittings in proper repair. |
| Prohibiting alteration of fittings. | (10.) Prohibiting any alteration of or interference with any meter, pipes, or fittings without the consent of or notice to the Board; and prohibiting the sale by any person to whom water is supplied by the Board, of water so supplied, except with the authority in writing of the Board. |
| Enabling Board to repair fittings at cost of consumer. | (11.) Enabling the Board to repair such pipes or fittings so as to prevent waste of water, and to recover the cost of such repairs from the owner or occupier of the land. |

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(12.) Prohibiting any mode of arrangement, and the use of any fittings which may, in the opinion of the Board, cause or tend to cause waste, misuse, undue consumption, fouling, or contamination of the water. Arrangement of fittings.

(13.) The inspection of all pipes, fittings, and meters. Inspection.

(14.) Licensing competent persons to perform work in connection with meters, pipes, and fittings; the cancelling of such licenses, and prohibiting any other than licensed persons from fixing, altering, or repairing meters, pipes, or fittings, connected with the works of the Board. Licensing plumbers.

(15.) Prescribing forms to be used for the purposes of this Act. Forms.

(16.) And for any other purposes relating to the administration of this Act and the exercise of the powers vested in the Board. Generally.

106. EVERY by-law—

(1.) May impose a penalty not exceeding Twenty pounds for the breach thereof, and, in the case of a continuing breach, a further penalty not exceeding Five pounds for each day the offence continues after notice thereof has been given by or on behalf of the Board to the offender; and Penalties for breach of by-laws.

(2.) May provide that, in addition to the penalty, any expense incurred by the Board in consequence of the breach of such by-law shall be paid by the person committing such breach.

107. EVERY by-law shall, upon approval by the Governor and publication in the *Government Gazette*, have the force of law; and shall be laid before both Houses of Parliament within fourteen days after such publication, if Parliament is then in session, and if not, then within fourteen days after the commencement of the next ensuing session. By-laws to be approved by the Governor and published in *Government Gazette*.

108. ALL notices and demands under this Act may be in writing or in print, or partly in writing and partly in print. Notices.

109. (1.) ANY notice or demand required by this Act to be given to or made upon any person may be served— Notices and demands, how served.

(a.) By delivering the same to such person;

(b.) By leaving the same at his usual or last-known place of abode;

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(c.) By forwarding the same by post in a prepaid letter addressed to such person at his usual or last-known place of abode.

When deemed to have been given.

(2.) A notice or demand forwarded by post shall be deemed to have been given or made and to have been received at the time when, by ordinary course of post, the letter would be delivered.

When name of owner or occupier unknown.

(3.) When a notice or demand under this Act is required to be given or made to any owner or occupier whose name or address is unknown to the Board, it shall not be necessary to name such owner or occupier, and such notice or demand may be served by placing it on some conspicuous part of the land of such owner or occupier, and by publishing it three times at intervals of not less than a week between any two publications in a newspaper usually circulating in the district.

Service on corporations.

(4.) A notice or demand may be served on a corporation, or incorporated company, or the members of a partnership, by being delivered, left, or posted in a prepaid letter; the notice or demand being addressed in each case to the corporation, company, or partnership at the principal office or place of business thereof in the State.

Notices binding on persons claiming under owner or occupier.

110. 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.

Notices may be authenticated by signature of chairman without seal.

111. EVERY order, summons, notice, or other document requiring authentication by the Board may be sufficiently authenticated without the common seal of the Board, if signed by the chairman.

Service on Board.

112. ANY summons or notice, or any writ or other proceeding requiring to be served upon the Board, may be served upon the chairman or secretary of the Board.

Saving of civil remedy.

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

Recovery of value of water misused, etc.

114. WHEN any water supplied under this Act has been wasted, misused, or unduly consumed, the Board may recover the value thereof, as a debt due to them by the person who wasted, misused, or unduly consumed the same, and the remedy given by this section shall be additional to any other remedy which the Board may possess, and to the liability to any penalty which such person has incurred.

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115. EVERY person who obstructs the Board, or any member thereof, or any person employed by the Board in the performance of any act or thing which they are respectively authorised or required to do in the execution of this Act or any by-law made thereunder, shall be liable to a penalty not exceeding Twenty pounds.

Obstructing Board or officers in performance of duty.

116. ANY officer of the Board may, without warrant, arrest any person found committing an offence against this Act or any by-law thereunder, if the offender refuses to give his name and address.

Offender may be arrested.

117. ALL penalties and forfeitures incurred under this Act or any by-law made thereunder, may be recovered summarily before any two or more Justices of the Peace in the manner provided by the Justices Act, 1902, on the complaint of the Board or any officer or servant of the Board.

Summary proceedings for offences and recovery of penalties.

118. ALL penalties and forfeitures recovered under this Act, or any by-law thereunder, shall be paid to the Board, and the proceeds are hereby appropriated for the purposes of this Act.

Application of penalties.

119. IN any proceeding in any Local Court or Court of Petty Sessions, or before any Justice, the secretary or any other officer of the Board appointed by the chairman in writing under his hand may represent the Board in all respects as if he were the party concerned.

Board may be represented by secretary or other officer.

120. (1.) ALL actions to be brought against the Board, or any person, for anything done, or purporting to have been done, under this Act shall be commenced within six months after the act complained of was committed.

Actions against commissioners or officers.

(2.) Notice in writing of the intended action, and the cause thereof, shall be served upon the Board, or the person against whom the action is to be brought, at least one month before any process is issued, with the name and place of abode of the party intending to bring such action.

(3.) If—

(a.) Tender of sufficient amends has been made before such process is issued; or

(b.) The matter complained of appears to have been done under the authority and in the execution of this Act; or

(c.) Such action is brought after the time limited for bringing the same; or

(d.) Such notice is not given as aforesaid,

judgment shall be given for the defendant with costs.

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Books of Land Titles and other offices may be searched without fee.

121. ANY person appointed under the hand of the chairman of the Board may, for the purposes of this Act, search the public registers of the office of Land Titles and Registry of Deeds, or any office of the Department of Lands or of Mines, without payment of any fee.

Property of Board not to be taxed.

122. ALL lands and works vested in or under the management and control of the Board shall be exempt from any rate, tax, or imposition which any local authority might, but for this section, lawfully levy and impose.

Proof of ownership or occupancy.

123. IN any legal proceedings under this Act, in addition to any other method of proof available,—

(1.) Evidence that the person proceeded against is rated as owner or occupier of any land; or

(2.) Evidence by the certificate in writing of—

(a.) 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; or

(b.) The Registrar of Titles, or any assistant or deputy registrar, that any person's name appears in any register book kept under the Transfer of Land Act, 1893, as proprietor of any land; or

(c.) The Under Secretary for Lands or the Under Secretary for Mines, that any person is registered in the Department of Lands or of Mines as the occupier or lessee of any land—

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

Minister for Works may exercise powers of Board pending appointment.

124. (1.) UNTIL the appointment of a Board under this Act, the Minister for Works may, within the water area, exercise all the powers conferred by this Act upon the Board; and

And outside water area.

(2.) The Minister for Works may at all times exercise all the powers of a Board duly appointed under this Act, except the making and levying of rates, with respect to all works constructed under the Coolgardie Goldfields Water Supply Construction Act, 1898, which for the time being are outside the water area.

In the name and on behalf of the King I hereby assent to this Act.

E. A. STONE, Administrator.

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1902," and default has been made in payment. These are therefore to authorise you to make distress of the several goods and chattels in the first place of the persons named in the Schedule, if resident on the land, and having any goods and chattels there, and in case of change of occupation, then upon the goods and chattels of any person who is the occupier in possession of the premises at the time of the execution of this warrant, and if, within five days next after the making of any distress under this warrant, the several sums so distrained for, including any lawful charges for levy, inventory, sale, commission, and delivery of goods in each case are not paid, then that you do sell the said goods and chattels so by you distrained, and out of the money arising by such sale you retain the respective sums so due and owing according to the said Schedule, and render to the parties respecting whose goods you have sold, the surplus (if any), and that you certify to me on or before the _____ day of _____ what you have done by virtue of this warrant.

Schedule.

Names of Ratepayers.	Description of Lands rated.	Amounts payable for Rates or water supplied.		
		£	s.	d.

Given under my hand this _____ day of _____, 19____
Chairman.

Sixth Schedule.

SCALE OF FEES ON DISTRESS FOR RATES.

Section 75.

Warrant (each person)	One shilling.
Levy	Five shillings.
For man in possession	One shilling an hour for first three hours, and if longer detained, eight shillings a day or part of a day, together with actual travelling expenses.
For inventory, sales, commission, and delivery of goods	Not exceeding One shilling in the pound on proceeds of sale.

Seventh Schedule.

Section 83.

THE GOLDFIELDS WATER SUPPLY ACT, 1902.

Notice.

By virtue of the provisions of "The Goldfields Water Supply Act, 1902," notice is hereby given to all parties interested that the sum of £_____ has now been due and unpaid for twelve months in respect of rates made and assessed [or for water supplied] by the Goldfields Water Supply Board upon [or to] [*here describe the land*], and payment of the said sum is now required;

2° EDWARDI VII., No. 33.

Goldfields Water Supply.

and the owner of the said property, and all other persons interested therein, are hereby warned that in default of payment of the said sum of £ , together with all expenses caused by the non-payment of the same, on or before the day of , 19 , to [the person appointed by the Board to receive the same], a petition will be presented by the said Board to the Supreme Court, praying the said Court to order the said property, or a competent part thereof, to be sold, pursuant to the provisions of the said Act.

Dated this day of , 19 .

(Signed)

Chairman of the Board.

Section 83.

Eighth Schedule.

THE GOLDFIELDS WATER SUPPLY ACT, 1902.

Certificate of Sale.

Whereas, by an order of the Supreme Court, dated the day of , 19 , it was ordered that [here describe the property ordered to be sold] should be sold by public auction by me, the undersigned, and the proceeds of such sale be dealt with as in the said order mentioned: Now I, the undersigned, do hereby certify that the said property was put up for sale by public auction on the day of , 19 , and that of became the purchaser thereof for the sum of £

In witness whereof I have hereto set my hand this day of , 19 .

(Signed)

Section 87.

Ninth Schedule.

THE GOLDFIELDS WATER SUPPLY ACT, 1902.

No. Debenture £

(Total Issue £).

Issued by the Goldfields Water Supply Board, Western Australia.

TRANSFERABLE BY DELIVERY.

This Debenture was issued by the Goldfields Water Supply Board of Western Australia, and is to secure to the bearer the principal sum of pounds, payable on the day of , 19 .

Interest on such principal sum at the rate of pounds per centum per annum is payable in the meantime by half-yearly payments on the day of , and the day of in every year, and a coupon is annexed for each payment, which entitles the bearer of such coupon thereto.

Such principal sum and interest are payable at , and are charged on the property and revenues of the said Board, and are not otherwise secured.

Dated the day of , 19 .

[SEAL]

(Signed)

Chairman of the Board.

Member of the Board.

Secretary.