

# ROAD DISTRICTS ACT, 1919-1948.

## ARRANGEMENT OF SECTIONS.

### PART I.—PRELIMINARY.

Sec.

1. Short title.
2. Division of Act.
3. Repeal.
4. (1) All matters and things subsisting under repealed Acts to enure for this Act.  
(2) References to old Road Acts to extend to existing enactments.
5. Interpretation.
6. Sundays, holidays, etc.
7. Misnomer in Act, Order in Council, etc., not to prejudice.

### PART II.—DISTRICTS.

8. Constitution and alteration of districts.
9. Method of and restrictions on exercise of powers.
10. Effect of transfer, division, severance, etc.
11. Effect of abolition of district.
12. Effect as to by-laws. Effect as to valuation.
13. Constitution of Board on division of district into wards.
14. New election on change of number of members or boundaries, etc.
15. Provision for admission as electors of ratepayers in transferred portions.
16. Exercise of connected powers by one order.
17. Meaning of "District" in this part.
18. Townsites to be included in districts.
19. Power conferred by this Act and also by Municipal Corporations Act to be exercised under this Act only.

Sec.

### PART III.—ROAD BOARDS.

#### *Division (1)—Constitution of Boards.*

20. Boards.
21. Board to be a body corporate. Judicial notice of Board.
22. Minister may act as Board for places outside districts.

#### *Division (2)—Qualification of Members.*

23. Qualification of members.
24. Disqualifications.
25. Supervening disqualifications.
26. Penalty for acting when disqualified.

#### *Division (3)—Retirement and Vacancies.*

27. Annual retirement of members.
28. Retirement in case of new districts.
29. Retiring member eligible for re-election.

#### *Division (4)—Appointment of Commissioner where no Board.*

30. Power to appoint commissioner where there is no board or quorum.
31. On appointment of commissioner remaining members go out of office.
32. Power after appointment of commissioner to restore government of district to a board.

#### *Division (5)—Qualification of Electors.*

33. (1) Electors.  
(2) Wards.
34. Number of votes.
35. Joint owners or occupiers.
36. Power of corporation to nominate representative for the purposes of this part.
37. New districts.

Sec.

*Division (6).—Electoral Rolls.*

38. Preparation of lists.
39. Claims.
40. Objections.
41. Lists to be published of claims and objections.
42. Board to hold court for revision of list.
43. Notice to be given.
44. Constitution of court.
45. Court may be adjourned.
46. Powers of the court.
47. Hearing of claims and objections.
48. Costs in cases of frivolous claims or objections.
49. Certificate, etc., of revision.
50. List to be made out and signed by chairman.
51. Lists so signed to be the electoral roll.
52. Copy of roll to be evidence.
53. Copies of roll to be supplied.
54. Omission to give notices of lists, etc., not to invalidate proceedings.
55. Minister may make orders directing how any non-compliance with foregoing provisions shall be rectified.
56. Minister may direct compilation of fresh roll in certain cases.
57. Procedure on failure of Board to hold Revision Court.
58. Governor may validate irregular roll.
59. Where no Board, Minister may appoint person to make roll.

*Division (7).—Election of Members.*

60. First elections.
61. Annual elections.
62. Extraordinary vacancies.
63. Returning officer.
64. Appointment in new districts.
65. Appointment of returning officer generally.  
Returning officer not to be a candidate.
66. Returning officer may appoint a deputy, etc.
67. Expenses of returning officers, etc.

*Division (8).—Nomination of Candidates.*

68. Nomination day.
69. Nomination—how made.
70. Penalties in case of nomination of incapacitated person.

Sec.

71. Proceedings at nomination. Acceptance of nomination conclusive as to compliance with Act.
72. Deposit to be forfeited in certain cases.

*Division (9).—The Polling.*

73. Polling places.
74. Ballot-papers.
75. Presiding officers.
76. Scrutineers.
77. Powers of returning officer, etc.
78. Ballot-boxes.
79. Time of taking poll.
80. Elector to vote for full number required to be elected.
81. Ballot-papers to be given to persons applying.
82. Manner of voting by ballot.
83. How vote to be marked.
84. Questions at elections previous to making electoral roll.
85. Questions to be put to elector at all other elections.
86. Spoilt ballot-papers.
87. Voting in absence.
88. Deputy returning officers to transmit ballot-papers to returning officer.
89. Ascertainment of the poll.
90. Ballot-papers when not deemed to be informal.
91. Disposal of ballot-papers.
92. Publication of result of elections in *Government Gazette*.
93. Adjournment of polling in case of riot.
94. Adjournment when from some cause no election held.
95. Errors of form not to vitiate elections.
96. Election not to be questioned for defect of title.
97. Invalidity of election no plea to action.
98. Abortive election.
99. Power to appoint commissioner not affected.

*Division (10).—Disputed Returns.*

100. Invalid elections how remedied.

*Division (11).—Electoral Offences.*

101. Offences.
102. Breach or neglect of official duty.
103. Bribery.
104. Definition.
105. Undue influence.
106. Definition.
107. Illegal practices.
108. Punishment.

- Sec.
109. Penalties in case of nomination of incapacitated persons.
  110. Prohibition of canvassing near polling-booths.
  111. Electoral offences.
  112. Offender may be removed from polling place.
  113. Further punishment.
  114. Expenditure on behalf of a candidate.
  115. Liability for indirect acts.
  116. Attempts.
  117. Certificate evidence.
  118. Hard labour may be awarded.
  119. Indictable offences.
  120. Summary conviction.

*Division (12).—Ouster from Office.*

121. Ouster from office.
122. Governor may supersede a Board.
123. Vacation of office.

**PART IV.—PROCEEDINGS OF THE BOARD.**

124. Election of chairman and vice-chairman.
125. Duration of office of chairman and vice-chairman.
126. Chairman, when present, to preside at meeting.  
Provision in case of his absence.
127. Provision for the absence of the chairman or his inability to act.
128. Resignation of chairman, vice-chairman, or acting chairman.  
Provision for casual vacancies.
129. Appointment of officers.
130. Remuneration on resignation or abolition of office.
131. Board meetings.
132. Quorum.
133. How questions decided.
134. Member cannot vote when interested.
135. As to adjournment of meetings.
136. Provision as to revocation or alteration of resolutions.
137. Board may appoint committee.
138. Meetings of committee.
139. Proceedings of Board not to be invalidated by vacancy.
140. Minutes of Boards.
141. Minutes to be evidence of proceedings.
142. Minute book to be open to inspection.
143. Board to provide office.
144. General meeting of ratepayers.

Sec.

**PART V.—POWERS AND FUNCTIONS OF BOARDS.**

*Division (1).—Control of Roads, Reserves, and the Subdivision of land in Districts.*

145. Power to provide roads.
146. No road of less width than sixty-six feet to be laid out.
147. No road to be set out within sixty-six feet of building.
148. Resolution to open new road to be confirmed by Governor.
149. Owner or occupier may require fencing to be erected.
150. Notification of new road.
151. Board may close a road permanently.
152. Temporary closure of road.
153. No right of way over Crown lands unless officially marked.
154. Board may close track not gazetted as a road.
155. Powers over reserves.
156. Power to boards to lease certain reserves.
157. Notice of subdivision to be given.
158. Roads and material thereof vested in Board.
159. Notice of sale of land to be given to Board.

*Division (2).—Works and Undertakings.*

160. Powers of Board.
  - (1) General management of roads, etc.
  - (2) Power to fill in abandoned mining shafts.
  - (3) Jetties and bathing houses.
  - (4) Water supply.
  - (5) Agreements for supply of water or purchase of water-works.
  - (6) Reticulation.
  - (7) Powers incidental to supplying water.
  - (8) Electric power.
  - (9) Guarantee by Board to supplier.
  - (10) Gas.
  - (11) Drains and water-courses.
  - (12) Drainage from roads.
  - (13) Tree-planting.
  - (14) Reserves.
  - (15) Parks, gardens, etc.
  - (16) Temporary tramways.
  - (17) Temporary closing for repairs.
  - (18) Deposit of road material.
  - (19) Clearing of poisonous plants.
  - (20) Seats.
  - (21) Passenger transport service.

Sec.

160. Powers of Board—*continued*.  
 (22) Hospitals and nursing systems.  
 (23) Provision of homes for employees.  
 (24) Subsidies to agricultural societies.  
 (25) Joint subsidies.  
 (26) Cemeteries.  
 (27) Railway sidings.  
 (28) Quarries.  
 (29) Ice.  
 (30) Aerodromes.
161. Provision in case land increased in value by drainage works undertaken by the Board.
162. Owners to pay half-cost of paving footways.
163. Limitation on power to contract for supply of water or purchase of water-works.
164. Limitation of power to supply electricity or gas.
165. Powers incidental to the supply of gas.
166. Determination of compensation.
167. Jetties.
168. Governor may place certain works under control of Boards.
169. Provision for recovery of cost of drainage works by the Board.
170. Bridges, etc., under control of Board.
171. Governor may exempt roads, etc., from the control of Board.
172. Displacement, etc., of materials of roads.
173. Steam road roller.
174. Authority to Board to construct drain through another district.
175. Board to unite in making or repairing a road on common boundary.
176. Local authorities to unite in construction and maintenance of certain drains.
177. Local authorities to unite in maintenance of drains on common boundaries.
178. Local authorities to unite in building or maintaining bridge, etc., across river on common boundary.
179. Minister may determine that such work or services be done or provided for.
180. Agreement between local authorities for providing and maintaining works.
181. Magistrate may summon local authority failing to treat.
182. Magistrate may apportion work and order execution.
183. Works may be executed accordingly.

Sec.

184. On omission, Minister or either party may execute and recover expenses.
185. Contribution by other local authorities.
186. Supplementary powers of Minister.
187. Power for Minister to repair main roads in default of Board.
188. Board may take materials for road-making.  
 Compensation.  
 Excavations to be fenced.
189. Gates across roads.
190. Board may require excavation to be filled in or fenced.
191. Trees obstructing or injuring roads.
192. Management of sewers and drains.
193. Board may abate nuisance.
194. Board may require land abutting on made footway to be fenced.
195. Provision as to payment of half cost of construction and repair of crossing place by the owner served.
196. Prevention of fires.
197. Board may establish pounds, etc.
198. Destruction of noxious weeds.
199. Maintenance of agricultural halls, etc.
- 199A. Board may demise hall upon certain terms.
200. Channels from mines.

*Division (3).—By-laws and Regulations.*

201. By-laws.
- (1) Elections.
  - (2) Meetings.
  - (3) Officers.
  - (4) Documents.
  - (5) Payment of rates.
  - (6) Public notices.
  - (7) Purposes of s. 160.
  - (8) Use and management of roads, reserves, and works, etc.
  - (9) Motor tracks.
  - (10) Lighting roads.
  - (11) Supply of water, gas, and electricity.
  - (12) Stands for vehicles.
  - (13) Hand carts.
  - (14) Crossing places.
  - (15) Registration discs.
  - (16) Entire horses.
  - (17) Covering of mares.
  - (18) Walls, etc., abutting on roads.
  - (19) Dangerous fences.
  - (20) Hoardings around works in progress.

- Sec.  
201. By-laws—*continued*.  
 (21) Advertisements on hoardings.  
 (22) Advertising hoardings.  
 (23) Licenses for hoardings.  
 (24) Fires.  
 (25) Inflammable substances.  
 (26) Blasting.  
 (27) Inflammable structures.  
 (28) Balconies, etc., overhanging roads.  
 (29) Nuisances.  
 (30) Public decency.  
 (31) Bathing.  
 (32) Bathing places.  
 (33) Bathing hours.  
 (34) Bathing houses, etc.  
 (35) Sea jetties, etc.  
 (36) Foreshores.  
 (37) Licenses for cutting timber.  
 (38) Goats.  
 (39) Registration of goats.  
 (40) Bees.  
 (41) Hawking.  
 (42) Stalls.  
 (43) Petrol pumps.  
 (44) Straying animals.  
 (45) Fees for grazing stock.  
 (46) Fencing.  
 (47) Water-courses, etc.  
 (48) Poisonous water from mines, etc.  
 (49) Public reserves, etc.  
 (50) Hot ashes.  
 (51) Charge on tents, etc., in lieu of rates.  
 (52) Lands which cannot be drained.  
 (53) Buildings.  
 (54) Building line.  
 (55) Pipe line.  
 (56) Clearing vacant lots in townsites.  
 (57) Noxious plants.  
 (58) General powers.  
 (59) For carrying into effect 2nd Schedule Town Planning and Development Act, 1928-1947.  
 (60) Regulating taking fish.  
 (61) Parking of caravans, etc.
202. License to quarry stone etc., within townsites and prescribed areas.
203. Governor may make general by-laws.  
 Governor may repeal by-laws.
204. (1) Matters that may be inserted in any by-law.  
 (2) Breach of licensing by-law.
205. Governor's confirmation requisite.
206. By-laws not to relieve offenders from other proceedings.

- Sec.  
207. (1) Copy of by-laws to be posted on jetties and bridges.  
 (2) Copies of by-laws to be on sale.
208. Building regulations.  
 208A. General building by-laws.  
 208B. Board may order certain buildings to be equipped with electricity.
- Division (4).—General.*
209. Procedure for taking land.  
 210. Failure of Board to make offer to claimant.  
 211. Method of entering into contracts.  
 212. (1) Conferences.  
 (2) Travelling expenses.  
 213. Board may make compositions.  
 214. Limitation of liability when work done in reliance on supposed legal authority.  
 215. Liability of members of Board.

## PART VI.—REVENUE.

### *Division (1).—Ordinary Revenue: Grants.*

216. Ordinary revenue.  
 217. Government grants.

### *Division (2).—Rateable Property.*

218. What shall be rateable property.

### *Division (3).—Valuations.*

219. Annual valuation of rateable property.  
 220. Unimproved value.  
 Proviso.  
 Rules to be observed in certain cases in ascertaining the value of land.  
 221. Certain rules to be observed in ascertaining the annual value of land.  
 222. Improved values.  
 223. General rules to be observed in making valuations.  
 224. Valuation of land when building thereon occupied by more than one person.  
 225. Valuation of subdivided lots.  
 226. Tramways or railways.  
 227. Valuation of tramways constructed under the Tramways Act, 1885.  
 228. Valuation of gas mains and electric lines.  
 229. Valuers.

Sec.

230. (1) Entry on premises by valuer.  
 (2) Valuer empowered to make inquiries.  
 (3) Penalty for false answers.  
 (4) Penalty for wilfully incorrect valuation.
231. Minister may cause valuation to be made.
232. If valuations of Board and Commissioner of Taxation are the same and subsequently the latter's is reduced on appeal, Board may similarly reduce its valuation.

*Division (4).—Rates.*

233. Rate book.
234. Owner where name not known to be rated as owner.
235. Rate book to be open to inspection.
236. One rate book and notice of assessment may be used for several rates.
- 236A. Various rates may be aggregated in one sum and entered in one column of rate-book.
237. Alteration or amendment of rate book.
238. If Board's valuation of land reduced the Board shall refund excess rates paid.
239. Minister may extend time for making up rate book.
240. Board to prepare annual estimates.
241. Board authorised to strike rate.
242. Loan rates.
243. Lighting rate.
244. Minimum rate.
245. Rates to be made for the financial year.
246. Manner of making rates.
247. Notice of assessment.
248. Application of this Part to annexed areas.
249. Provision in case of new districts.
250. Exemption.

*Division (5).—Appeals.*

251. Grounds of appeal.
252. Appeals, how made.
253. Appeals by occupiers.
254. Appeals to the Board.
255. Appeal to Local Court.
256. Court may order costs.
257. Decision of court final. Power to state case.

Sec.

*Division (6).—Liability for and Recovery of Rates.**(A).—General.*

258. Who is liable for rates.
259. Payment of rates by mortgagee.
260. Persons liable to be resorted to in succession.
261. Apportionment of rates.
262. Complaint or action for rates. All rates may be included in one summons.
263. Discount on rates for prompt payment.  
 Rebates.
264. Non-compliance with procedure prescribed in Act not to prevent recovery of rate.
265. Defence in special cases.
266. Rate book to be evidence.
267. Refusal to give name of person liable.
268. List of defaulters may be published.
269. Arrears may be written off.

*(B).—Power to Lease.*

270. Power to lease land on which arrears of rates are due.
271. Powers of taking possession and leasing.
272. Release of property after demand and payment of arrears.
273. Appropriation of rents received.
274. Land, when vested in Board.

*(C).—Power of Sale.*

275. Powers of Board.
276. Conditions for exercise of power of sale.
277. Contents of notice.
278. Fixing of time for sale by auction.
279. Advertisement for sale.
280. Right to pay rates.
281. Power of Board to transfer or convey land.
282. Statutory declaration.
283. Duties of Board and Registrar.
284. Combination of all lands of same owner.
285. Application of purchase money.
286. Receipt of Board a discharge.
- 286A. Changes in boundaries of districts.
- 286B. Power to sell after advertisement lapses if sale not made within a year.
- 286C. Power to transfer land to Crown.
- 286D. Power to transfer land to Board.
- 286E. Discharge of liability on sale of land.

Sec.

286EA. Application may be made to vest certain land in His Majesty.

286F. Saving provision.

*Division (7).—Overdraft.*

287. Overdraft.

#### PART VII.—BORROWING AND SPECIAL POWERS.

288. Power to borrow money.  
 289. Purposes for which money to be borrowed.  
 290. Amount to be borrowed.  
 291. Permanent works and undertakings.  
 292. Loans may be raised on debentures.  
 293. Form of debentures.  
 294. Debentures to be payable to bearer.  
 295. Debentures and coupons to pass by delivery.  
 296. When debentures to be made payable.  
 297. Plans, specifications, and estimate to be prepared before borrowing.  
 298. Notice to be published.  
 299. Power to demand vote of owners.  
 300. Vote of owners, how taken.  
 301. Power to Board under certain circumstances to proceed to raise money.  
 302. All debentures valid under certain circumstances.  
 303. Sinking fund.  
 304. Power to purchase debentures instead of contributing to sinking fund.  
 305. Power to purchase debentures.  
 306. Sinking fund may be placed at fixed deposit.  
 307. Investment of interest on sinking fund.  
 308. Application of sinking fund to meet debentures.  
 309. Power of Treasurer to transfer sinking fund after repurchase of debentures.  
 310. When Treasurer may transfer.  
 311. Priorities of debenture holder.  
 312. Power to appoint receiver.  
 313. Power to remove receiver.  
 314. Powers of receiver.  
 315. Commission to receiver.  
 316. Transfer of sinking fund to receiver.  
 317. Purposes for which receiver is to hold moneys.  
 318. Separate accounts to be kept of every loan.  
 319. Balance of loan, how applicable.

Sec.

#### PART VIIA.—AGREEMENT BETWEEN BOARDS AND THE STATE HOUSING COMMISSION FOR PROVISION OF ROADS.

- 319A. Interpretation.  
 319B. Agreements with Commission relative to roads.  
 319C. Agreements to provide record of debit and credit.  
 319D. Sections 297-300 inclusive not applicable to agreements.  
 319E. This Part to apply to certain agreements.

#### PART VIII.—ACCOUNTS AND AUDIT.

320. Financial year.  
 321. Books of account and inspection by persons interested.  
 322. Quarterly financial statement.  
 323. Money in hand at end of each year to be paid into bank.  
 324. Officers to deliver accounts, etc.  
 325. Officers failing to render account or to pay balance, etc.  
 326. Auditors.  
 327. Duties of inspector.  
 328. Annual balance and audit.  
 329. Annual financial statement.  
 330. Duty of inspector.  
 331. Duty of inspector in case of unauthorised expenditure.  
 332. Inspector may take legal advice.  
 333. Provision for payment of cost of audit.  
 334. Governor may remove auditor from his office.  
 335. Power to expend money for purposes not specifically authorised.

#### PART IX.—OFFENCES AND MISCELLANEOUS.

336. Obstructing Board or officers in performance of duty.  
 337. Penalty for obstructing road, etc.  
 338. Injury to property of Board.  
 339. Neglect to keep in repair fence adjoining road.  
 340. Leaving open gate.  
 341. Offences.  
 342. Penalties.  
 343. Recovery of penalties.  
 344. Limitation.  
 345. Incorporation of portions of Interpretation Act.  
 346. Penalties recovered to be paid to Board.

- |  |  |
|--|--|
| <p>347. Board may be represented by secretary or other officer.</p> <p>348. Property may be stated in indictment, etc., to be the property of the Board.</p> <p>349. Conditions under which action against Board may be brought.</p> <p>350. Charges need not be registered.</p> <p>351. Notices.</p> <p>352. Service of documents on owners and occupiers.</p> <p>353. Notices binding on persons claiming under owner or occupier.</p> <p>354. Notices may be authenticated by signature of chairman without seal.</p> <p>355. Service on Board.</p> <p>356. Saving of civil remedy.</p> <p>357. Books of Land Titles and other offices may be searched without fee.</p> | <p>358. Proof of ownership or occupancy.</p> <p>359. Works may be constructed by several Boards jointly.</p> <p>359A. Jurisdiction to try validity of assessment rate or order for borrowing money.</p> <p>360. Power to destroy old rate books, etc.</p> <p>361. Statistics.</p> <p>362. Regulations and forms.</p> <p>363. Act not to affect rights of the Crown.</p> <p>364. Governmental inquiry.</p> <p>365. Arbitration.</p> |
|--|--|
- 
- FIRST SCHEDULE: Repeal.
- SECOND SCHEDULE: Building Regulations.
- THIRD SCHEDULE: Rules concerning orders for possession or sale of land on which rates are in arrear.
-

# ROAD DISTRICTS.

## No. 38 of 1919.

Reprinted for the second time pursuant to the Amendments Incorporation Act, 1938, as amended by No. 43 of 1925, No. 28 of 1928,\* No. 39 of 1928, No. 50 of 1930,† No. 35 of 1932,‡ No. 6 of 1933,§ No. 16 of 1934,|| No. 19 of 1934,¶ No. 48 of 1934,\*\* No. 33 of 1938,†† No. 48 of 1938,‡‡ No. 54 of 1939,§§ No. 56 of 1939,||| No. 22 of 1941,¶¶ No. 28 of 1941,\*\*\* No. 5 of 1942,††† No. 31 of 1942,‡‡‡ No. 19 of 1943,§§§ No. 9 of 1946,|||| No. 46 of 1946,¶¶¶ No. 64 of 1946,\*\*\*\* No. 25 of 1947,†††† No. 44 of 1947,‡‡‡‡ No. 57 of 1947,§§§§ No. 25 of 1948.|||||

**AN ACT** relating to Roads outside Municipal Districts, and to consolidate and amend the law relating to the Constitution and Local Government of Road Districts, and for other relative purposes.

[Assented to 17th December, 1919.]

**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 *Road Districts Act, 1919-1948.*

1919-1951 - *Am Act: Amendment Act 1951.*

Short title.  
No. 38 of  
1919, s. 1.  
No. 6 of  
1933, s. 16.  
No. 5 of  
1942, s. 6.  
No. 19 of  
1943, s. 8.  
No. 9 of  
1946, s. 3.  
No. 46 of  
1946, s. 5.  
No. 64 of  
1946, s. 17.  
No. 25 of  
1947, s. 2.  
No. 44 of  
1947, s. 2.  
No. 57 of  
1947.  
No. 25 of  
1948, s. 2.

\* Assented to 27th December, 1928; † assented to 30th December, 1930; ‡ proclaimed to commence 11th February, 1933 (see *Gazette*, 10th February, 1933); § assented to 2nd October, 1933; || assented to 5th December, 1934; ¶ assented to 12th December, 1934; \*\* assented to 21st January, 1935; †† assented to 31st January, 1939; ‡‡ assented to 31st January, 1939; §§ assented to 23rd December, 1939; ||| assented to 23rd December, 1939; ¶¶ assented to 25th November, 1941; \*\*\* assented to 15th December, 1941; ††† assented to 28th October, 1942; ‡‡‡ assented to 23rd December, 1942; §§§ assented to 20th October, 1948; |||| assented to 13th November, 1946; ¶¶¶ assented to 24th January, 1947; \*\*\*\* assented to 24th January, 1947; †††† assented to 12th November, 1947; ‡‡‡‡ assented to 11th December, 1947; §§§§ assented to 10th January, 1948; ||||| assented to 9th December, 1948.

Division of  
Act.  
No. 38 of  
1919, s. 2.  
No. 25 of  
1947, s. 3.

2. This Act is divided into parts and divisions, as follows:—

PART I.—PRELIMINARY. (Sections 1 to 7).

PART II.—DISTRICTS. (Sections 8 to 19).

PART III.—ROAD BOARDS :

*Division (1)—Constitution of Boards.* (Sections 20 to 22.)

*Division (2)—Qualification of Members.* (Sections 23 to 26.)

*Division (3)—Retirement and Vacancies.* (Sections 27 to 29.)

*Division (4)—Appointment of Commissioner where no Board.* (Sections 30 to 32.)

*Division (5)—Qualification of Electors.* (Sections 33 to 37.)

*Division (6)—Electoral Rolls.* (Sections 38 to 59.)

*Division (7)—Election of Members.* (Sections 60 to 67.)

*Division (8)—Nomination of Candidates.* (Sections 68 to 72.)

*Division (9)—The Polling.* (Sections 73 to 99.)

*Division (10)—Disputed Returns.* (Section 100.)

*Division (11)—Electoral Offences.* (Sections 101 to 120.)

*Division (12)—Ouster from Office.* (Sections 121 to 123.)

PART IV.—PROCEEDINGS OF THE BOARD. (Sections 124 to 144.)

PART V.—POWERS AND FUNCTIONS OF BOARDS :

*Division (1)—Control of Roads, Reserves, and the subdivision of land in districts.* (Sections 145 to 159.)

*Division (2)—Works and Undertakings.* (Sections 160 to 200.)

*Division (3)—By-laws and Regulations.* (Sections 201 to 208.)

*Division (4)—General.* (Sections 209 to 215.)

PART VI.—REVENUE :

*Division (1)—Ordinary Revenue—Grants.*  
(Sections 216 and 217.)

*Division (2)—Rateable Property.* (Section 218.)

*Division (3)—Valuations.* (Sections 219 to 232.)

*Division (4)—Rates.* (Sections 233 to 250.)

*Division (5)—Appeals.* (Sections 251 to 257.)

*Division (6)—Liability for and Recovery of Rates.* (a) General (Sections 258 to 269) ;  
(b) Power to lease (Sections 270 to 274) ;  
(c) Power of sale (Sections 275 to 286.)

*Division (7)—Overdraft.* (Section 287.)

PART VII.—BORROWING AND SPECIAL POWERS.  
(Sections 288 to 319.)

PART VIIA.—AGREEMENTS BETWEEN BOARDS AND  
THE STATE HOUSING COMMISSION FOR THE PRO-  
VISION OF ROADS. (Sections 319A to 319F.)

Inserted by  
No. 25 of  
1947, s. 3.

PART VIII.—ACCOUNTS AND AUDIT. (Sections 320 to 335.)

PART IX.—OFFENCES AND MISCELLANEOUS.  
(Sections 336 to 365.)

SCHEDULES :

First Schedule—Acts repealed.

Second Schedule—Building Regulations.

Third Schedule—Rules concerning orders for possession or sale of land on which rates are in arrear.

3. (1) The Acts mentioned in the First Schedule hereto are hereby repealed.

Repeal.  
No. 38 of  
1919, s. 3.

(2) The Interpretation Act, 1918-1948, shall apply to and in respect of the repealed Acts as if no time had been fixed by law for the expiry of such Acts.

4. (1) Every district, ward, board, office, regulation, rule, by-law, electoral list or roll, certificate, instrument, book, document, valuation, imposition of rate, proclamation, order-in-council, notice, declaration, determination, vote, appointment and election and every act of authority

All matters and things subsisting under repealed Acts to enure for this Act.  
No. 38 of  
1919, s. 4.

and other act, matter, or thing which was subsisting or operative immediately before the commencement of this Act, under or for the purposes of any statutory provision which is hereby repealed and hereby re-enacted with or without modification, shall, subject to this Act, subsist and enure for the purposes of this Act as fully and effectually as if it had originated under the corresponding provision hereof, and accordingly shall, when necessary, be deemed to have so originated, and this Act shall apply thereto accordingly.

References to old Road Acts to extend to existing enactments.

(2) In every unrepealed Act in which reference is made to the District Roads Act, 1871, or any other repealed Act providing for the constitution of road districts, such reference shall be construed as having been intended to extend to the enactment for the time being in force providing for the constitution of road districts.

Interpretation.

No. 38 of 1919, s. 5.

5. In this Act, subject to the context—

“Adjoining” means contiguous or separated only by a public reserve, common, or road, or by a river or stream or other like natural division;

“Board” means the Board of a Road District;

“Chairman” means the Chairman of a Board, and includes the vice-chairman and any deputy or acting chairman;

“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;

“Crown Lease” means any lease from the Crown of Crown lands or any license or concession from the Crown for taking any profit of Crown lands, excluding—(a) any instrument executed or issued pursuant to any contract or arrangement with the Crown by virtue whereof lands are held or occupied on conditional terms of purchase or with any right to acquire the fee simple; and (b) a miner’s homestead lease; and (c) any lease under the State Housing Act, 1946-1948; and (d) any instrument by virtue whereof lands are held or occupied subject to the payment of a peppercorn or nominal rental;

No. 6 of 1933, s. 2.

- “Crown Lessee” means any person entitled to any interest or right in or over Crown lands under a Crown lease;
- “District” means a road district;
- “Government Road” means a Government road within the meaning of the Public Works Act, 1902-1945;
- “Improved value” means the improved value as ascertained in manner prescribed in this Act;
- “Improvements” in relation to land includes all material placed and the result of all work effected on the land whereby the value thereof is increased; but does not include any chattel which has not become a fixture;
- “Justice” means a justice of the peace for the State or for any magisterial district thereof;
- “Local Authority” means a council of a municipality or a board;
- “Magistrate” means a resident or police magistrate or any two justices;
- “Member” means a member of a board, and includes the chairman;
- “Minister” except in Division (1) of Part V. means the member of the Executive Council charged for the time being by the Governor with the administration of this Act; and in Division (1) of Part V. the term means the Minister for Lands;
- “Occupier” means the person by whom or on whose behalf any land is actually occupied, or, if there is no occupier, the person entitled to possession, and includes any person in the unauthorised occupation of Crown land, and any person who, under a license or concession relating to any specific land belonging to the Crown, has the right of taking any profit of the land;
- “Outlying land” means any land not comprised in a municipal or road district;

“Owner” as applied to the land means:—

(1) Any person who is in possession as—

- (a) The holder of a legal or equitable estate of freehold in possession therein (including any estate or interest under any contract or arrangement with the Crown or any other person by virtue whereof the land is held or occupied with a right to acquire the fee simple by purchase or otherwise); or
- (b) a Crown lessee or a lessee or tenant under a lease or tenancy agreement of land which in the hands of the lessor is non-rateable land within the meaning of this Act, but which in the hands of such lessee or tenant and by reason of such lease or tenancy is declared by this Act or any other Act to be rateable land for the purposes of this Act; or
- (c) a mortgagee of the land; or
- (d) a trustee, attorney, or authorised agent of any such holder, lessee, tenant, or mortgagee.

No. 35 of  
1932, s. 2.

No. 35 of  
1932, s. 2.

Provided that if there is no such person in possession, the term means the person who is entitled to possession in any of the aforesaid capacities, except that of mortgagee, and that, for the purposes of this definition, receipt of the rents and profits is equivalent to possession.

(2) Any person who, under a license or concession relating to any specific Crown land, has the right of taking any profit of the land:

Provided that if any person is lawfully entitled to occupy any land which is vested in the Crown, and which has no other owner as above defined, or is in the actual occupation (with or without title) of the surface of any portion of a mining tenement within the meaning of the Mining Act, 1904-1948, or has without title,

any tent, camp, or other habitation on any land belonging to another person, or is in the unauthorised occupation of any Crown land, he shall be deemed, for the purposes of this Act, to be the owner of the land occupied or on which the habitation stands;

“Own” and “occupy” and any grammatical inflections thereof, have, in relation to land, meanings corresponding to “owner” and “occupier” respectively;

“Pave” means to make a hard surface with asphalt, flags, tiles, cement, stones, wood, gravel, metal, siftings, shell or other material, or any combination of materials;

“Prescribed” means prescribed by this Act or any regulation or by-law made or operative under it;

“Public notice” means notice by advertisement in the *Gazette*, but a board may give notice of any matter or thing by such additional means as to the board may seem fit;

“Public place” means and includes every road and every place under the control of a local authority which the public are allowed to use or resort to;

“Public holiday” means any day which is a public service holiday under the Public Service Act, 1904-1948, and any day which is declared a public holiday by proclamation, either generally or as regards any particular district or districts;

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

“Reserve” means any land excepted from sale under Section 29 of the Land Act, 1933-1948, or the corresponding part of any Land Regulations in force at any time prior to that Act, and includes parks and other lands acquired for public purposes;

See Land Act, 1933, Part III.

No. 35 of 1932, s. 2.

“Road” means and includes any thoroughfare or highway which the public are entitled to use and every part thereof and all bridges and culverts

No. 35 of  
1932, s. 2.

and other things appurtenant thereto, and used in connection therewith, and includes any land marked as a road upon the plan of any lands publicly exhibited in the public office of the Department of Lands and Surveys, or on any plan deposited in the Office of Titles either prior to or after the passing of this Act;

“Secretary” means the secretary to the board or the person acting for the time being in that capacity;

“Suburban land” means land set apart as such by the Governor under the provisions of the Land Act, 1933-1948, or any Land Regulation in force prior to that Act;

“Surveyor” means the surveyor or engineer of a local authority or any other person authorised to act as such for the time being, and includes the building surveyor;

“This Act” includes the regulations in the Second Schedule in so far as they are in operation;

“Town” or “townsite” means any land constituted, defined or reserved as the site of a town or village under the Land Act, 1933-1948, or any amendment thereof, or under any Land Regulations in force at any time prior to that Act, and also any land which is or has been a municipal district or portion thereof, and also any land subdivided and laid out as the site for a town, township, or village, in accordance with a subdivisional plan, registered in the Office of Titles or the Department of Lands and Surveys, and includes any land (including privately owned subdivided land) which the Governor may see fit, as he is hereby empowered, to declare by proclamation to be a town or townsite for the purposes of this Act;

See Land  
Act, 1933,  
Part III.

No. 35 of  
1932, s. 2.

“Unimproved value” means the unimproved value as ascertained in the manner prescribed by this Act;

“Value of the improvements” in relation to land means the added value which the improvements give to the land at the date of valuation irrespective of the cost of the improvements;

“Way” means a road which is less than sixty-six feet wide, measured at right angles to its course;

“Year” means financial year, beginning on the first of July and ending on the thirtieth of June.

6. Whenever any day, or the last of several days, provided or appointed by or under this Act for any purpose in any year happens on a Sunday, or a day which is a bank or public holiday, either throughout the State or in the district, then such provision and appointment shall take effect as for the next following week-day which is not such a public holiday:

Sundays,  
holidays,  
etc.  
No. 38 of  
1919, s. 6.

Provided that, in the event of an election falling on a Saturday which is a public holiday, the election shall be held on the first Saturday that is not a holiday following such public holiday.

No. 35 of  
1932, s. 3.

7. No misnomer or inaccurate description contained in this Act or in any by-law, regulation, or order in council made thereunder, shall in anywise prevent or abridge the operation of this Act with respect to the subject of such description, provided the same is designated so as to be capable of being understood.

Misnomer in  
Act, Order in  
Council, etc.,  
not to pre-  
judice.  
No. 38 of  
1919, s. 7.

## PART II.—DISTRICTS.

8. (1) The Governor may by Order in Council—

Constitution  
and alteration  
of districts.  
No. 38 of  
1919, s. 8,  
amended by  
No. 22 of  
1941, s. 2.

(i) Constitute any outlying land a road district;

(ii) constitute any part or parts of any existing road district or districts a road district;

(iii) unite two or more adjoining districts or unite any road district to an adjoining municipal district or any municipal district to an adjoining road district;

(iv) constitute the whole of a road district a municipal district;

(v) constitute the whole of a municipal district a road district;

- (vi) constitute a road district partly in one such way and partly in any other such way or ways as is or are herein authorised;
- (vii) divide a district into two or more districts;
- (viii) constitute any portion of a road district a municipal district or any portion of a municipal district a road district;
- (ix) transfer to a municipal district any adjoining portion of any road district or to a road district any adjoining portion of a municipal district;
- (x) include in any district adjoining outlying land;
- (xi) divide or re-divide a district into wards or abolish all or any of the wards of a district or include within a ward of a district any portion of that district or transfer to one ward of a district any portion of another ward;
- (xii) assign a name to or alter the name of any district or ward;
- (xiii) sever any portion of a road district therefrom, and either constitute such portion a road district, or annex it to an existing road district or municipal district;
- (xiv) abolish a district and dissolve the board thereof;
- (xv) abrogate any abolition of a district and restore such district and reinstate any dissolved board;
- (xvi) describe the boundaries of a district as existing for the time being.

No. 6 of  
1933, s. 3.

(2) When any addition is made to any district under this section the Governor may constitute the added land a ward or portion of a ward of the district.

No. 22 of  
1941, s. 2.

(3) When any parcel of land lies partly in one district and partly in another district as constituted by the Governor under subsection (1) of this section, and it is necessary or desirable that one only of the local authorities of the said districts shall exercise the functions of

a local authority under this Act in relation to the whole of the said parcel of land, then, and in any such case, in lieu of the Governor exercising any power conferred upon him by subsection (1) of this section, it shall be lawful for either or both of the local authorities concerned to apply to the Minister for a determination by him of the question whether or not the whole of the said parcel of land shall be included in the district of one local authority, and, if such parcel of land shall be included in one district, in which of the said districts it shall be so included, and when any such application is made to the Minister, it shall be lawful for the Minister to determine the questions aforesaid; and any determination made by the Minister shall be final and conclusive and shall have and take effect according to the tenor thereof. Before any local authority shall apply to the Minister for the determination of any of the questions aforesaid the local authority shall give notice in writing of its intention to make such application to any ratepayer interested in such parcel of land.

Any ratepayer interested shall be entitled to acquaint the Minister in writing of his desire as to any of the questions to be determined and his reasons therefor. The Minister in arriving at his determination of any of the questions aforesaid shall take into consideration any desire so expressed:

Provided that any determination by the Minister under this subsection shall not in any way affect the exercise by the Governor of any power conferred upon him by subsection (1) or subsection (2) of this section.

9. (1) Before any power conferred by the last preceding section is exercised, the Minister shall publish in four successive issues of the *Gazette*, and cause to be served on the local authorities concerned, notice of the intention of the Governor to exercise such power.

Method of  
and restric-  
tions on  
exercise of  
powers.  
No. 38 of  
1919, s. 9.

(2) If within one month, or such extended time as the Governor directs, after the first of such publications no sufficient cause is shown to the satisfaction of the Governor why the power proposed to be exercised should not be exercised, the Governor may exercise the power.

No. 35 of  
1932, s. 4.

(3) If for two consecutive financial years the revenue derived from the general rates only of any board, not exempted under section two hundred and fifty is in each year less than five hundred pounds, then within one month after the end of the second year the Governor may abolish the district and include the area thereof in some other district: Provided that this subsection shall not be taken to imply any limitation of any power conferred by any other provisions of this Act.

(4) Notwithstanding anything hereinbefore contained, no order purporting or appearing to be made under or in reliance on this part of this Act shall be deemed invalid on account of any non-compliance with any of the provisions of this section.

Effect of  
transfer,  
division,  
severance,  
etc.  
No. 38 of  
1919, s. 10.

10. (1) Subject to this Act, the following provisions shall, according to the nature of the case, apply on the exercise of any power under section eight:—

- (i) All property whether real or personal, vested or contingent (including all rights and choses in action, and causes of action whether by law assignable or otherwise), and all powers, functions, and jurisdiction which immediately before the union belonged to or were vested in or which but for the exercise of the power would have become vested in or capable of acquisition by the local authority of any district affected shall (in the case of a union of districts) vest in or become transferred or pass to the local authority of the united district subject to any debt, liability, or obligation specially charged on or affecting or attached to the same, and in other cases may be apportioned and allocated by the Governor in such manner as he shall deem best.
- (ii) All debts and liabilities of any local authority affected of whatsoever description, whether certain or contingent, and whether then existing or capable of arising at some future time shall (in the case of a union of districts) be and become debts and liabilities of the local authority of the united district, and shall be

recoverable and enforceable accordingly, and in other cases may be apportioned by the Governor in such manner as he shall deem best.

- (iii) All actions and other proceedings pending between a local authority of any district affected and any person shall, and may (in the case of a union of districts) be carried on by or against the local authority of the united district, and all necessary amendments shall be made in any such proceedings accordingly, and in other cases the Governor may provide for the continuation of any such action or proceeding by or against a local authority in such manner as he shall think fit.
- (iv) If any of the local authorities affected is indebted by way of moneys advanced to it by way of loan, the Governor may declare that all or any loan rates applicable to such loan or any part thereof shall be levied only on such portion of any district as the Governor shall determine to have been specially benefited by such loan or such portion thereof.
- (v) When any district is converted into a municipal district, or *vice versa*, the local authority of the newly constituted district shall be deemed to be the successor in law of the local authority of the district which has been so converted as aforesaid. No. 35 of 1932, s. 5.
- (vi) Where by any Order in Council a district or portion of a district is united to a municipal district, land situated within such district or portion thereof shall be exempt from loan rates in respect of any money borrowed previously by the municipality; and where a municipality is dissolved and the municipal district is included in a district constituted under this Act, the second proviso to section two hundred and forty-two shall apply. Ibid.
- (vii) The Governor may adjust and finally determine all questions relating to any of the matters aforesaid, and make any necessary vesting orders.

(2) If in any case in which an order has been made before the commencement of this Act under section eight of the Roads Act, 1911, any such matters as are dealt with in this section remain unadjusted or unsettled, the Minister may, by notice in the *Gazette*, declare that this section shall apply in such case in so far as any such matters remain so unadjusted or unsettled, and this section shall thereupon apply accordingly.

Effect of abolition of district.  
No. 38 of 1919, s. 11.

11. (1) Whenever any district is abolished the Minister may, after such abolition and until the inclusion of such district in another district, in his name or style of office, collect, get in, sue for and recover and sell, convey, transfer, and assign the assets of the abolished district, and apply the moneys realised by such collection, getting in, and sale (after payment thereout of expenses) in or towards the discharge of the liabilities of the abolished district.

(2) Subject as aforesaid, the provisions of this part apply in the case of a district abolished and subsequently dealt with under this part as if there had been no separate order of abolition.

Effect as to by-laws.  
No. 38 of 1919, s. 12.

12. On the exercise of any of the powers conferred by section eight—

(i) 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 in which they were so in force until they are lawfully repealed;

Effect as to valuation.

(ii) the valuation (if any) last in force of the rateable land in the portion so affected shall continue to be in force until a fresh valuation thereof has been made by the local authority of the new district or the district in which such portion is included.

Constitution of board on division of district into wards.  
No. 38 of 1919, s. 13;  
No. 6 of 1933, s. 4.

13. (1) On a district being divided into wards—

(a) all the members of the board shall go out of office on the day appointed by the Minister, but shall be eligible for re-election and

(b) the Minister may order, settle, adjust, and finally determine any rights, liabilities, ques-

tions, and matters regarding the constitution of the board or the representation of the electors thereon which may arise in consequence of any district being so divided.

(2) On a district being redivided into wards, the members of the board representing the ward or wards affected, shall go out of office on a day to be appointed by the Minister, but shall be eligible for re-election; and the provisions of paragraph (b) of subsection (1) shall apply.

(3) Where a district has been divided into wards and subsequently all such wards are abolished, the Governor may by Order in Council determine whether any and which of the existing members of the board shall go out of office and at what time, and, if necessary, appoint a day for holding an election of new members to take the place of those members who go out of office. Any member who goes out of office as aforesaid shall be eligible for re-election.

Inserted  
by No. 19 of  
1943, s. 2.

14. On the exercise by the Governor of any power conferred by section eight, and mentioned in paragraphs ii, iii, iv, v, vi, vii, viii, ix, x, xiii, or xv thereof or on a change being made under this Act in the number of members of a local authority or on any portion of a ward or district being transferred under this Act to a ward the Governor may, by Order in Council, declare and direct whether a new election of members shall be held for any district affected or any ward thereof, and, if so, when such election shall be held, and whether any and which of the existing members shall go out of office, and at what time, and may order, settle, adjust, and finally determine any rights, liabilities, questions, and matters regarding the representation of electors on any local authority affected, and the constitution of the local authority which he may deem necessary to be ordered, settled, adjusted or determined:

New election  
on change  
of number of  
members or  
boundaries.  
No. 38 of  
1919, s. 14.

Provided that when any portion of a district has been severed under this Act, the electors of that portion shall not thereafter be entitled as such to vote at any election in or for the district.

Provision for admission as electors of ratepayers in transferred portions.  
No. 38 of 1919, s. 15.

15. On the exercise of any powers under section eight the Governor may make any order for the admission as electors of any ward or district for the balance of any year of owners or occupiers of rateable land therein which became transferred in that year to the ward or district after the thirteenth day of January in the case of a road district, or the first day of September in the case of a municipal district.

Exercise of connected powers by one order.  
No. 38 of 1919, s. 16  
No. 6 of 1933, s. 5.

16. When the exercise of any power under section eight would be rendered necessary or possible by the exercise of any other power, then both powers may be exercised by the same Order in Council.

Meaning of "District" in this part.  
No. 38 of 1919, s. 17.

17. In the preceding sections of this part, except subsection one of section eight and section thirteen, the word "district" shall, subject to the context, be deemed to include a municipal district which is affected by any order under this Act, and references to the local authority shall be deemed to include the council and corporation of any such district if the context so permits.

Townsites to be included in districts.  
No. 38 of 1919, s. 18.

18. Where a townsite, not being a municipality, is surrounded by or adjoins any district, it shall be included in the district. If such townsite adjoins more than one district, it shall be included in such district as may be determined by the Governor.

Power conferred by this Act and also by Municipal Corporations Act to be exercised under this Act only.  
No. 38 of 1919, s. 19.

19. (1) If provision is made by this part of this Act for the exercise of any power for the exercise whereof provision is also made by the Municipal Corporations Act, 1906-1947, then after the commencement of this Act the power shall be exercised under this Act only, and not under the Municipal Corporations Act, 1906-1947.

(2) Sections eighteen, nineteen, twenty, twenty-one and twenty-two of the Municipal Corporations Act, 1906-1947, shall (but the rest of Part III of that Act shall not) be applicable and have effect, according to the nature of the case, to and in respect of an order made under this part of this Act in so far as it affects any municipal district.

## PART III.—ROAD BOARDS.

*Division (1)—Constitution of Boards.*

20. (1) In every district there shall be a board, to be called the (*name of district*) Road Board, and consisting of not less than five or more than thirteen members as the Governor from time to time declares by Order in Council.

Boards.  
No. 38 of  
1919, s. 20.

(2) If the district is divided into wards, the Governor shall from time to time determine the number of members for each ward.

(3) The members of the board shall be elected as hereinafter provided.

21. (1) Every board shall be a body corporate, with perpetual succession and a common seal, and may purchase or otherwise acquire and hold and alienate land.

Board to be  
a body cor-  
porate.  
No. 38 of  
1919, s. 21.

(2) Every court and magistrate shall take judicial notice of the existence and incorporation of every board.

Judicial  
notice of  
board.

22. The Minister and all persons authorised by him may exercise and perform all or any of the powers and duties of a board in or over any place which does not lie within a road or municipal district.

Minister may  
Act as board  
for places  
outside dis-  
tricts.  
No. 38 of  
1919, s. 22.

*Division (2)—Qualification of Members.*

23. (1) Every adult person, being a natural born or naturalised subject of the King and the owner or occupier of rateable land in a district and eligible to be registered as an elector, who is not disqualified by any of the provisions hereinafter set out, shall be qualified to be elected and to act as a member of the board of such district.

Qualification  
of members.  
No. 38 of  
1919, s. 23:  
No. 35 of  
1932, s. 6.

(2) When a district is divided into wards, it shall not be necessary that the land owned or occupied shall be within the ward for which the person has been or is proposed to be, elected as a member.

(3) Where the owner of any rateable land is qualified to be elected as a member of the board, any attorney, agent, or business manager of such owner shall, subject

to the provisions hereinafter set out, be qualified to be elected, and act as a member of the board, if the owner does not reside on the land.

Disqualifica-  
tions.  
No. 38 of  
1919, s. 24.

**24.** Any person who—

- (1) is an undischarged bankrupt; or
- (2) is of unsound mind; or
- (3) is the holder of any office of profit under the board; or
- (4) has any direct or indirect pecuniary interest in any agreement with the board otherwise than as a member, and in common with the other members of an incorporated company consisting of at least twenty members.

shall be incapable of being elected or acting as a member of a board:

Provided that paragraph four shall not apply to any person because he—

- (a) in the ordinary course of business and not pursuant to any written contract, *bona fide* sells goods to, or does work for, the board; or
- (b) rents from the board for entertainments or business purposes any building, hall, or room; or
- (c) is the lessee from the board of any land; or
- (d) is beneficially interested in any newspaper in which the board inserts advertisements.

But no member claiming exemption under this proviso shall take part in any discussion, or vote on any question, relating to any such matter as is therein mentioned in which he is directly or indirectly interested.

Supervening  
disqualifica-  
tions.  
No. 38 of  
1919, s. 25.

**25.** (1) If a member of a board—

- (i) dies or ceases to be a subject of the King or to be otherwise qualified as provided in section twenty-three; or
- (ii) becomes subject to any of the disabilities mentioned in the last preceding section; or

- (iii) accepts, whether by assignment, composition, or otherwise, any such relief as is afforded by law to bankrupt or insolvent debtors; or
- (iv) by notice under his hand delivered to the chairman or secretary of the board resigns his office; or
- (v) is declared ousted of such office by the Supreme Court or a judge thereof, whether or not he was entitled to have been declared by the returning officer to be elected; or
- (vi) is absent from three or more consecutive ordinary meetings of the board without leave obtained from the board in that behalf,

his place shall thereupon become vacant, and such vacancy shall be deemed to be an extraordinary vacancy.

(2) The non-attendance of a member at the time and place appointed for any ordinary meeting of the board shall not be deemed absence from an ordinary meeting of the board within the meaning of this section—

- (a) unless a meeting of the board at which a quorum is present is actually held on that day; or
- (b) while any proceedings in connection with the ouster from office of such member is pending in the Supreme Court, or such member's return is the subject of a pending proceeding under section one hundred.

26. (1) Every person declared by this Act to be incapable of acting as a member of the board shall, if he so acts, be guilty of an offence against this Act, save in the case of incapacity proceeding from unsoundness of mind.

Penalty for acting when disqualified. No. 38 of 1919, s. 26.

Daily penalty: Two pounds.

(2) All acts and proceedings of any person elected or returned as elected and acting as a member, notwithstanding that any such person has not been or is not duly qualified or elected or ought not so to act, shall be as valid and effectual as if such person had been duly qualified and elected and authorised to act.

*Division (3)—Retirement and Vacancies.*

Annual retirement of members. No. 38 of 1919, s. 27; No. 6 of 1933, s. 6.

27. Except as hereinafter provided, on the day of the annual election held under this Act in every year, a certain number of members shall go out of office by rotation, and such number shall be determined as follows:—

No. 48 of 1938, s. 2.

- (a) If the number of members is a multiple of three one-third of the members shall go out of office.
- (b) If the number of members is not a multiple of three, the number to go out of office shall, subject as hereinafter provided, be determined by the board, so that no member shall continue in office for more than three years, except when for any reason permitted by this Act the annual election is deferred or postponed to a day subsequent to the day appointed by this Act for holding such annual election, and that, as nearly as may be, one-third of the number of members shall retire in each year.
- (c) The members for a district or ward to go out of office shall (except as hereinafter provided) be the members who have been longest in office without re-election.
- (d) As between two or more members for a district or ward who have been in office an equal time without re-election, the member who at his election received the least number of votes shall go out of office. If they received the same number of votes, or there was no ballot, it shall be decided by lot which of them shall go out of office.
- (e) The respective numbers of the retirements for the wards (if any) shall be proportioned to the respective numbers of members for such wards, or such retirements shall be divided amongst such wards in accordance with the determination of the board in, as nearly as may be, such proportions.
- (f) Except as in this Act otherwise provided, any member elected to fill an extraordinary vacancy shall be deemed for the purposes of

this section to have been elected when his immediate predecessor was elected, and shall retire accordingly.

- (g) If a board does not, on or before the fourteenth day of February in any year, make any determination which it is hereby empowered to make, then the Minister may make such determination.
- (h) No determination made or purporting to be made hereunder by the Minister, or by a board, shall have its validity questioned on any ground whatever.
- (i) It shall be the duty of the secretary of the board to inform the Minister immediately of any failure on the part of the board to make any such determination as aforesaid.

**28.** If the first election for a new district or any election for the return of the whole number of the members of a board is held not more than five months before the day appointed by this Act for the holding of the next ensuing annual election, no member shall be required to go out of office until the day upon which the second annual election ensuing after such member is elected is held.

Retirement  
in case of  
new district.  
No. 38 of  
1919, s. 28;  
No. 6 of  
1933, s. 7;  
No. 48 of  
1938, s. 3.

**29.** Every member who retires or vacates his seat by rotation, resignation, or otherwise howsoever shall, if otherwise qualified, be eligible for re-election.

Retiring  
member  
eligible for  
re-election.  
No. 38 of  
1919, s. 29.

*Division (4)—Appointment of Commissioner where no Board.*

**30.** (1) In case at any time there is in any district no board or not sufficient members to form a quorum, the Governor may, by Order in Council, appoint some fit and proper person to be commissioner of such district, and may remove every person so appointed: Provided that this section shall not apply in the case of a new district till after the day appointed for the first election.

Power to  
appoint  
commissioner  
where there is  
no board or  
quorum  
No. 38 of  
1919, s. 30.

(2) Every such commissioner shall be paid such salary out of the ordinary income of the district as the Governor may determine.

(3) Every commissioner so appointed shall be deemed the board, and shall have and exercise all the powers and be subject to all the duties of the board and the chairman thereof.

On appointment of commissioner remaining members go out of office.  
No. 38 of 1919, s. 31.

31. If when a commissioner is appointed for any district any members are in office in such district, they shall thereupon go out of office.

Power after appointment of commissioner to restore government of district to a board.  
No. 38 of 1919, s. 32.

32. Whilst a commissioner is in office for any district the Governor may, whenever he thinks fit, by Order in Council, appoint a day for holding an election of members for the return of the whole number of members assigned to the district or to the wards thereof, and if and when a quorum is elected, all the powers and duties of the commissioner shall cease.

#### *Division (5)—Qualification of Electors.*

Electors.  
No. 38 of 1919, s. 33.

33. (1) Every adult person, being a natural born or naturalised subject of the King, and being on the thirteenth day of January in any year the owner or occupier of land liable to be rated within the district, shall (subject as hereinafter provided) be qualified as an elector, and to be registered as such on an electoral roll, and when so registered, to vote at elections of members for the district:

Provided that the owner and occupier shall not both be registered as electors in respect of the same rateable land:

Provided also that the occupier (if he is not an owner) shall not be entitled to be registered as an elector unless, under the provisions hereinafter contained, he applies to the board to have his name inserted in the electoral list; but if such an application is made in respect of any land by any such occupier thereof, and such application is sustained, then no owner of such land shall be entitled to be registered in respect thereof.

Wards.

(2) When a district is divided into wards, every person entitled to vote—

(a) shall be so entitled for the ward only in which the qualifying land of such person is situated; and

(b) subject to the next following section, shall be so entitled for every ward wherein any qualifying land of such person is situated:

Provided that where any person is the owner or occupier of land held as one holding and situated partly in one ward and partly in another ward, the whole of the land shall be deemed to be situated within one of such wards according to the choice of the person entitled to be registered in respect thereof, such choice to be made at or before the time appointed for the holding of the Revision Court, or if no choice is made, according to the determination of the board.

34. Every person entitled to vote shall, at every election, have a number of votes proportionate to the unimproved capital value or the annual rateable value (according to the system of rating adopted by the Board) of the land owned or occupied by such person within the district according to the following scale:—

Number of votes.  
No. 38 of 1919, s. 24; No. 22 of 1941, s. 3.

Unimproved Capital Value.	Number of Votes.
Not exceeding one hundred and fifty pounds ..	One
Exceeding one hundred and fifty pounds, and not exceeding three hundred pounds .. ..	Two
Exceeding three hundred pounds and not exceeding six hundred pounds .. .. .	Three
Exceeding six hundred pounds .. .. .	Four

Annual Value.	Number of Votes.
Not exceeding ten pounds .. .. .	One
Exceeding ten pounds and not exceeding twenty-five pounds .. .. .	Two
Exceeding twenty-five pounds and not exceeding fifty pounds .. .. .	Three
Exceeding fifty pounds .. .. .	Four

Provided that no person shall exercise more than four votes in any road district:

Provided also that where a district is divided into wards, and any person has qualifying land in each of several wards, he may select the ward or wards in which he desires to be registered as an elector, but he shall not have a number of votes for any ward exceeding the number proportionate to the value of his qualifying land in such ward, and the aggregate number of votes for any such person shall not exceed four.

Inserted by  
No. 22 of  
1941. s. 2.

Provided further that—

- (i) when, in accordance with the next preceding proviso to this section any person selects the ward or wards in which he desires to be registered as an elector he shall also, when making such selection, state the number of votes to which he is entitled, which he desires to exercise in the ward, or in each of the wards respectively, which he has selected as aforesaid; and
- (ii) when any person fails to select the ward or wards in which he desires to be registered as an elector, or fails to state the number of votes which he desires to exercise in any ward or in each of the wards respectively which he has selected as aforesaid, the board, when dealing with or reviewing the electoral list, may select for such person the ward or wards in which he shall be registered as an elector and determine the number of votes which he may exercise in the ward, or in each of the wards respectively, which shall have been selected by the board for such person as aforesaid; and
- (iii) whenever an elector, or the board acting for an elector, has selected the ward or wards in which the elector shall be registered as an elector, and has stated or determined the number of votes which the elector may exercise in the ward, or in each of the wards respectively which have been selected as aforesaid, no alteration in the selection of the ward or wards, or in the statement or determination of the votes aforesaid, shall be made until after the expiration of three years from the date when the said selection or the said statement or determination was made.

Joint owners  
or occupiers.  
No. 38 of  
1919. s. 35.

**35.** (1) For the purposes of this part each of two or more owners or occupiers of one piece of land shall be deemed to be an owner or occupier of rateable land of half the rateable value of such piece of land: Provided

that not more than two persons shall be registered or entered on an electoral list in respect of the same piece of land.

(2) When there are more than two owners or occupiers, then all the owners or a majority of them may out of their number, or all the occupiers or a majority of them may out of their number, choose two who shall be entitled to the rights under this part of owners or occupiers (as the case may be) of the piece of land.

(3) Such choice shall be made for any year by writing signed by the persons making it and delivered to the secretary on or before the thirteenth day of January. In default of a choice or until a choice is made either on the part of owners or on the part of occupiers, the two owners or occupiers (as the case may be) whose surnames come first in alphabetical order shall be deemed to be chosen.

(4) When two occupiers are entitled to apply for registration in respect of the same piece of land, either of them may make application on his own behalf to have his name inserted in the electoral list.

**36.** (1) When a corporation is the owner or occupier of rateable land, such corporation may by letter signed on its behalf, and delivered to the secretary on or before the thirteenth day of January in any year, appoint a person to represent it for the purposes of this part, and such person shall be entitled to the rights under this part of the owner or occupier (as the case may be) of the land accordingly.

Power of corporation to nominate representative for the purposes of this part. No. 38 of 1919, s. 36.

(2) In default of such appointment any manager, secretary, superintendent, or attorney who appears to the board to be authorised to represent the company for the purposes of this part shall be entitled to the rights aforesaid.

**37.** At any election in a new district for which no electoral roll is in force, every owner and also every occupier of rateable land shall be entitled to vote, as if both owners and occupiers were registered as electors, but shall have one vote only.

New districts. No. 38 of 1919, s. 37.

*Division (6)—Electoral Rolls.*

Preparation  
of lists.  
No. 38 of  
1919, s. 38;  
No. 48 of  
1938, s. 4;  
No. 22 of  
1941, s. 4.

**38.** (1) On or before the fourteenth day of January in every year, the board shall make out, in the prescribed form, a list of all owners of rateable land within the district.

(2) When a district is divided into wards a separate list may be made out for each ward.

(3) Every list shall be arranged in alphabetical order of surnames, shall contain the several particulars indicated in the prescribed form, and shall be signed by the chairman; and a copy shall, on the said day and on the seven days next following, be exhibited on the outer door of the outer office of the board or in some other public place in the district.

Claims.  
No. 38 of  
1919, s. 39.

**39.** Any person—

- (a) who is an owner qualified as an elector, and whose name has been omitted from a list; or
- (b) who is an occupier of rateable land entitled to be registered as an elector on application; or
- (c) who is dissatisfied with the rateable value put upon the land of which he is the owner or occupier,

may apply to the board to have his name inserted, or to have the rateable value altered (as the case may be).

Such application shall be in the prescribed form, and shall be delivered on or before the thirty-first day of January in any year, and may be sent through the post or by telegraph.

Objections.  
No. 38 of  
1919, s. 40.

**40.** (1) Any person whose name appears on any electoral list may object to any person as not being entitled to have his name retained or placed on the list, or to the rateable value of land placed against the name of any person.

(2) Every such objection shall be made to the board, and to the person objected to, in the prescribed form, and shall be delivered on or before the thirty-first day of January in any year, and may be sent through the post or by telegraph.

41. The board shall cause lists to be made of the names and addresses of the persons claiming to have their names inserted on any electoral list, or to have the amount of the rateable value set against their names altered, and the particulars of such claims; and also of the persons whose names or the rateable value of whose lands have been objected to; and shall cause such lists, with appropriate headings stating the contents thereof, to be exhibited on the outer side of the outer door of the office of the board, or in some other public place in the district on or before the seventh day of February in each year.

Lists to be published of claims and objections. No. 38 of 1919, s. 41.

42. (1) Except as hereinafter provided, the board shall hold an open court for the revision of the electoral list or lists on such day not earlier than the twenty-first day of February nor later than the first day of March in each year as may be appointed by the board.

Board to hold court for revision of list. No. 38 of 1919, s. 42.

(2) The court may be held at the office of the board, or, if the board thinks fit, at any other place within the district.

(3) Provided that if no application or objection under section thirty-nine or forty is received within the prescribed time, it shall not be necessary to hold a court of revision, and the chairman and two members of the board may forthwith sign and certify the said list, and such list shall thereupon be deemed to have been duly certified within the meaning of and for the purposes of section fifty.

43. Seven days' notice of the holding of such court shall be given by exhibiting such notice on the outer door of the office of the board, or in some public place in the district, and so far as practicable by advertisement in a newspaper usually circulating in the district.

Notice to be given. No. 38 of 1919, s. 43.

44. (1) The court shall consist of three or more members of the board.

Constitution of court. No. 38 of 1919, s. 44

(2) The chairman, if present, shall preside, but in his absence the members present may appoint one of their number to be chairman.

Court may  
be adjourned.  
No. 38 of  
1919, s. 45.

**45.** Every court may from time to time be adjourned; and if at any time, for half an hour after the time appointed for holding any court, three members of the board are not present, any one member, or if no member is present, the secretary may adjourn the court.

Powers of  
the court.  
No. 38 of  
1919, s. 46.

**46.** The court shall have power to hear, receive, and examine evidence, and for that purpose to administer an oath or affirmation, and by summons under the hand of the chairman of the court to require any person to appear before the court, and to produce all such books and papers in his possession or under his control as may be necessary for the purpose of his examination; and the court shall have the like powers for compelling the attendance of witnesses summoned and their submission to examination, as by any law in force for the time being are vested in justices exercising summary jurisdiction; and the court shall, upon hearing in open court, by the decision of a majority, determine upon the validity of all claims and objections.

Any person failing to obey the summons of the court or to answer any question lawfully put to him or otherwise refusing to submit to examination shall be liable to a penalty not exceeding ten pounds.

Hearing of  
claims and  
objections.  
No. 38 of  
1919, s. 47.

**47.** The court shall—

- (a) insert in the list under revision the name of every person who has claimed, and is proved to the satisfaction of the court, to be entitled to have his name inserted;
- (b) determine the claim of every person to have the rateable value put upon the land of which he is the owner or occupier altered;
- (c) remove from the list or refuse to place thereon the name of any owner of any land if an occupier thereof has, in accordance with the provisions of this Act, made and sustained an application to have his name inserted in the list;
- (d) retain upon the list the name of every person objected to with the rateable value set against

his name unaltered, unless the person objecting appears by himself or by someone on his behalf in support of the objection;

- (e) on the appearance of any person objecting, require proof by the person objected to of so much of the qualification as is embraced in the grounds of objection; and in case such qualification is not proved to the satisfaction of the court, strike out the name of the person objected to, or alter the rateable value set against his name, as the case may require;
- (f) subject as hereinafter provided, retain on the list the name and qualification of every person against whom no objection has been made;
- (g) strike out the name of any person proved to be disqualified or dead;
- (h) correct any mistake, or supply any omission which may appear to have been made in the list in respect of the name, address, or occupation of any person, or in respect of the description or situation of the rateable land.

48. If it appears to the court that any person has made or attempted to sustain any frivolous or vexatious claim or objection, the court may award such costs as to the court may seem meet to be paid by such person to the person resisting such claim or objection; and the same may, in default of payment, be recovered in a summary manner before any two justices.

Costs in cases of frivolous claims or objections. No. 38 of 1919, s. 48.

49. The chairman shall, in open court, write his initials against the names struck out or inserted, and against any part of the list in which any mistake has been corrected or omission supplied or alteration made, and shall sign his name to every page of the list so settled, and shall then cause to be written at the foot or end of the list a certificate that the same has been revised and is correct, with the date thereof, and the chairman and at least two other members of the court shall sign such certificate.

Certificate, etc., of revision. No. 38 of 1919, s. 49.

List to be  
made out and  
signed by  
chairman.  
No. 38 of  
1919, s. 50.

50. (1) The list so certified shall be delivered to the secretary or an officer appointed by the board for the purpose, who shall forthwith cause the same to be copied or printed; and to every name a number shall be prefixed, such numbers beginning at the first name with the number one, and continuing in regular arithmetical series to the last name on the list.

(2) The chairman having satisfied himself that the certified list has been correctly copied or printed, shall, on or before the fifteenth day of March, sign the copy or print thereof:

Provided that if on the revision of the list the number of names struck out and inserted does not exceed five per centum of the total names on the list, it shall not be obligatory to copy or print the list, but the list as revised and certified, and duly signed by the chairman in lieu of a copy or print thereof, shall be the electoral roll for the district or ward, as the case may be.

List so signed  
to be the  
electoral roll.  
No. 38 of  
1919, s. 51.

51. The copied or printed list so signed as aforesaid shall be the electoral roll for the district or ward (as the case may be), and (except as herein otherwise expressly provided) shall not be added to or altered, and shall continue in force until a new roll is made:

Provided that the board may on the application of any elector or of the secretary or of the person interested—

- (a) insert on the roll the name of any person who has, since the last preceding thirteenth day of January become the owner of rateable land, and is otherwise qualified to be an elector together with the appropriate particulars;
- (b) strike off the roll the name of any person who has, since the last preceding thirteenth day of January, ceased to be the owner of the land set against his name, and is not at the time of the application the owner of any rateable land;
- (c) make such alteration in the description and rateable value of any land set against the name of any person whose name is on the roll, and who has acquired or parted with any rateable

land since the last preceding thirteenth day of January as shall be necessary to make the particulars on the roll correspond with the description and value of the rateable land held by such person at the time of the application;

- (d) make such consequential alterations in the roll as shall be just.

52. Any document purporting to be certified by the secretary or chairman to be a copy of the electoral roll shall be *prima facie* evidence of the contents of the roll in any court of justice, or for any other purpose:

Copy of roll to be evidence.  
No. 38 of 1919, s. 52.

Provided that electoral rolls shall at all reasonable times be open to inspection by any member of the board or any elector or ratepayer, and any such person may take copies or extracts from the said electoral roll without payment of any fee.

53. The board shall supply a copy of the electoral roll, certified by the secretary or chairman to be a correct copy, to any person requiring the same on payment of a reasonable charge not exceeding five shillings.

Copies of roll to be supplied.  
No. 38 of 1919, s. 53.

54. No omission to give any notice with regard to any list or to keep any list for perusal or inspection shall in any way invalidate any such list or any roll founded thereon.

Omission to give notices of lists, etc., not to invalidate proceedings.  
No. 38 of 1919, s. 54.

55. (1) If from any cause anything connected with the preparation, revision, or completion of the electoral list or roll for a district has not been duly and properly done at or within the time appointed or limited for that purpose, the Minister may, by order published in the *Gazette*, direct such thing to be done at a time and place appointed by him, and may by the same order or by any other order published in the *Gazette* direct that such subsequent proceedings and acts necessary for the preparation, revision, or completion of the list or roll be taken and done at any place and at or within any time appointed or limited by the order, and any such order may give such further directions in the premises as the Minister shall judge necessary or expedient under the circumstances.

Minister may make orders directing how any non-compliance with foregoing provisions shall be rectified.  
No. 38 of 1919, s. 55.

(2) Every order made hereunder shall have legal effect according to its tenor.

Minister may direct compilation of fresh roll in certain cases. No. 38 of 1919, s. 56.

56. Whenever it is proved to the satisfaction of the Minister that any roll has not been duly and regularly prepared, revised, or completed in accordance with this division, he may by order in writing published in the *Gazette* direct the compilation of a fresh roll, and may order that such fresh list and roll be prepared, revised, and completed in such manner and according to such rules as he shall prescribe, and such order shall have effect according to its tenor, and the roll so compiled shall supersede any prior roll.

Procedure on failure of board to hold Revision Court. No. 38 of 1919, s. 57.

57. When the Minister makes an order for the holding of a court for the revision of an electoral list, he may authorise such court to be formed and held by any three persons nominated by him.

The persons so nominated (of whom one shall be nominated chairman) shall have the same powers as if they were members of the board, and as if the chairman so nominated were chairman of the board.

Governor may validate irregular roll. No. 38 of 1919, s. 58.

58. Whenever any provision of this division has not been complied with the Governor may, by Order in Council, declare that any electoral roll shall be valid notwithstanding such non-compliance, and the roll shall be validated accordingly, and shall not be liable to be superseded by any roll compiled by direction of the Minister.

Where no board, Minister may appoint person to make roll. No. 38 of 1919, s. 59.

59. In the case of any new district, or any district where there is no board, all acts and things whatsoever required or necessary to be done under this division of this Act may be lawfully done by such person at such time and at such place as the Minister may appoint in that behalf.

#### *Division (7)—Election of Members.*

First elections. No. 38 of 1919, s. 60.

60. The first election of members of a board for a new district, and any election to fill all the places on the board, shall be held on such day as the Minister may appoint.

61. An annual election of members of the board shall be held for every district on the third Saturday in April in every year:

Annual elections.  
No. 38 of 1919, s. 61;  
No. 35 of 1932, s. 7;  
No. 6 of 1933, s. 8.

Provided that when the first election for a new district, or any election to fill all the places on the board is held not more than five months before the next ensuing third Saturday in April, the next election shall not take place until the third Saturday in the second month of April ensuing.

62. When an extraordinary vacancy arises from any cause the election to fill such vacancy, in the event of more than one nomination being received, shall be held within two months from the occurrence of such vacancy, when the district in which such vacancy occurs is situate wholly south of the twenty-sixth parallel of south latitude and within three months from the occurrence of such vacancy when the district in which such vacancy occurs is situate wholly or partly north of the said twenty-sixth parallel of south latitude, and in each case, on a day to be fixed by the board, or the chairman:

Extraordinary vacancies.  
No. 38 of 1919, s. 62;  
No. 35 of 1932, s. 8;  
No. 19 of 1943, s. 3.

Provided that, when such vacancy occurs within four months before the date fixed by this Act for the holding of an annual election, the seat may, with the approval of the Minister, continue vacant until that election.

63. Every election shall be conducted by some person, hereinafter called the returning officer.

Returning officer.  
No. 38 of 1919, s. 63.

64. At the first election in a newly constituted district the returning officer shall be appointed by the Minister and on appointment the Returning Officer shall make and subscribe a statutory declaration in the prescribed form.

Appointment in new districts.  
No. 38 of 1919, s. 64;  
No. 25 of 1947, s. 4.

65. (1) At every election, except as aforesaid, the returning officer shall be the chairman or other person appointed by the board, but if there is no board, or no person is appointed by the board, then such person as the Minister may appoint shall be the returning officer, and the returning officer shall before commencing his duties make and subscribe a statutory declaration in the prescribed form.

Appointment of returning officer generally.  
No. 38 of 1919, s. 65;  
No. 48 of 1938, s. 5;  
No. 25 of 1947, s. 5.

(2) Such appointment shall be published by affixing a written notice to that effect on the outer side of the outer door of the office of the board or other accustomed place of meeting of the board at least eight days before the day fixed for such election, and keeping the same there affixed until the day of such election; but no omission to so publish the said notice shall be deemed to invalidate any such appointment.

Returning officer not to be a candidate.

Inserted by No. 48 of 1938, s. 5; amended by No. 5 of 1942, s. 2.

(3) No person who at or in relation to any election—

(a) acts as returning officer or deputy returning officer; or

(b) has been appointed by the Minister to take absentee votes

shall be or become a candidate at such election.

Provided that this subsection shall not apply to a person who, having been appointed to take absentee votes as aforesaid, by a notice in writing to the Minister relinquishes such appointment before the nomination day for the election at which he proposes to be a candidate.

(4) If any returning officer through sickness or for any other reason is unable to act or refuses or neglects to act in the execution of his office, then the Minister may appoint some other person to exercise his powers, either absolutely or for such period as the Minister shall direct.

(5) Where, for any reason whatsoever, the chairman of a board is unable to act as returning officer at an election, or the returning officer for any reason whatsoever is unable to act or refuses or neglects to act in the execution of his office and in accordance with this section another person is appointed by the board or by the Minister to act as returning officer, nothing in this Act shall operate to prevent a member of the board, other than the chairman, being so appointed, and being paid and accepting payment as remuneration for his services as returning officer, and in any such case section twenty-four of this Act shall not apply.

Inserted by No. 48 of 1938, s. 5.

Returning officer may appoint a deputy, etc. No. 38 of 1919, s. 66; formerly ss. (2). No. 25 of 1947, s. 6.

**66.** (1) The returning officer may appoint one or more deputy returning officers, and such poll-clerks as are required for taking the poll, and may make and enforce all necessary regulations, and fix the polling place or polling places, unless the same are fixed by the board,

and each deputy returning officer and poll clerk shall make and subscribe a declaration in the prescribed form before the returning officer.

(2) Any member of the board, other than the chairman, may be appointed by the returning officer under subsection (1) of this section to be a deputy returning officer, and when a member of the board is so appointed nothing in this Act shall operate so as to prevent him being paid and accepting payment as remuneration for his services as deputy returning officer, and in any such case section twenty-four of this Act shall not apply.

Inserted by  
No. 5 of 1942,  
s. 3, as ss.  
(1a); now  
numbered  
ss. (2).

(3) If after the prescribed notice of any election has been given, and before the conclusion of such election, the returning officer dies or becomes incapable of acting, the deputy returning officer, or in case more than one has been appointed such one as shall be selected by the secretary, or in case no deputy has been appointed the secretary shall, for all the purposes of such elections, be deemed to be the returning officer.

67. All reasonable expenses of and incidental to any election incurred by the returning officer and approved by the board shall be repaid to him by the board, and the board may grant to the returning officer a fee not exceeding three guineas, and to each deputy returning officer and poll clerk a fee not less than thirty shillings and not more than two guineas.

Expenses of  
returning  
officers, etc.  
No. 38 of  
1919, s. 67.  
No. 64 of  
1946, s. 2.  
No. 26 of  
1947, s. 7.

*Division (8)—Nomination of Candidates.*

68. The nomination day shall be the twenty-first day next preceding the day appointed by or under this Act for the election:

Nomination  
day.  
No. 38 of  
1919, s. 68;  
No. 35 of  
1932, s. 9.

Provided that in districts situated wholly or partly north of the 26th parallel of south latitude the nomination day shall be the twenty-eighth day next preceding the day so appointed for the election.

No. 6 of 1933,  
s. 9.

69. (1) Any person who is qualified and desirous of being a candidate for election shall, at or before twelve o'clock noon on the nomination day, or within fourteen clear days next preceding that day, or, in the case of districts situated wholly or in part north of the twenty-sixth parallel of south latitude, within thirty-five clear

Nomination—  
how made.  
No. 38 of  
1919, s. 69;  
No. 35 of  
1932, s. 10.

days next preceding such day, cause to be delivered to the returning officer or the secretary, at the office of the board, or some other place within the district to be appointed by the returning officer, of which the prescribed notice shall be given, a nomination paper in the prescribed form.

No. 64 of  
1946, s. 3.

(2) Such nomination paper shall be accompanied by a deposit of five pounds, and shall be signed by the person named therein as a candidate, or by his agent thereunto duly authorised in writing, in token of his assent to be so named: Provided that such agent shall cause to be delivered to the returning officer or secretary, together with the nomination paper, the written authority by virtue of which he has signed the nomination paper for the candidate.

(3) No candidate shall nominate for more than one ward at any election.

(4) The deposit shall consist of legal tender, a cheque marked good by a bank, a post office order, or a postal note.

(5) The nomination paper shall be enclosed in a sealed envelope addressed to the returning officer or the secretary, and endorsed "Nomination paper," and shall be opened by the returning officer at the time and place appointed for the nomination, and not before.

Penalties in  
case of  
nomination  
of incapacitated person.  
No. 38 of  
1919, s. 69A,  
inserted by  
No. 35 of  
1932, s. 11;  
No. 54 of  
1939, s. 2.

**70. Every person who shall—**

- (a) procure or permit himself to be nominated as a candidate for the office of member of any road board knowing himself to be under the provisions of this Act incapable of being or continuing such member; or
- (b) knowingly sign any nomination paper nominating or purporting to nominate as a candidate for the office of member of any road board any person incapable of being or continuing such member; or
- (c) knowingly sign any nomination paper nominating any person as a candidate at and for any election of members not being himself qualified to vote at such election,

shall for every such offence be liable to a penalty not exceeding twenty pounds.

Provided that this section shall not apply in the case of a candidate who is qualified for election signing his own name.

Inserted by  
No. 54 of  
1939, s. 2.

71. (1) On the nomination day the returning officer shall attend at twelve o'clock noon at the office of the board, or such other place as may have been appointed for the nomination, and shall read the names of the candidates nominated.

Proceedings  
at nomination.  
No. 38 of  
1919, s. 70.  
No. 35 of  
1932, s. 12.

(2) In the event of there being no greater number of candidates than is required to be elected, the returning officer shall declare such candidates to be duly elected, and they shall be deemed to have been duly elected.

Such declaration shall be made on the nomination day, but in the case of an annual election the person or persons then declared to be elected shall not take office until after the day appointed for the annual election.

No. 6 of 1933,  
s. 10.

(3) In the event of there being more candidates than the number required to be elected, the returning officer shall advertise in a newspaper circulating in the district or otherwise publish in the prescribed manner the names of the candidates, the polling day, and the polling place or places.

(4) It shall be in the power of any candidate so nominated, by notice in writing signed by him addressed to the returning officer and delivered to such returning officer or the secretary, at any time before the expiration of forty-eight hours after the day of nomination, to withdraw from such candidature:

Provided that if such withdrawal, or the death of any candidate reduces the number of candidates to a number not greater than required to be elected, the returning officer shall, on the polling day, without taking a poll, declare the remaining candidates duly elected.

(5) The returning officer shall reject the nomination of any person who has not been nominated in accordance with section sixty-nine, but no returning officer shall inquire into the qualification of any person to be elected or stand or be nominated as a candidate.

Acceptance of nomination conclusive as to compliance with Act.

(6) The acceptance by the returning officer of any nomination shall be conclusive evidence of the due compliance with the provisions of section sixty-nine, except with regard to such qualification as aforesaid.

Deposit to be forfeited in certain cases. No. 38 of 1919, s. 71.

72. (1) The deposit made by or on behalf of a person nominated shall be retained pending the election, and after the election shall be returned unless the person by or on whose behalf it was made withdraws his nomination or fails to obtain at the election a number of votes above one-fifth of the number polled by the successful candidate, or (if more than one candidate is elected) the lowest number polled by any successful candidate, in which case the deposit shall be forfeited to the board.

(2) On the death of a candidate before the election, the deposit made on his behalf shall be paid to his legal personal representative.

*Division (9)—The Polling.*

Polling places. No. 38 of 1919, s. 72.

73. The board shall give the prescribed notice of any election to be held under this Act, and shall appoint and give the prescribed notice of a chief polling place, and such other polling places as it may deem necessary within or without the district.

Ballot-papers. Repealed. New section added. No. 25 of 1947, s. 8.

74. Before and in time for every election the returning officer shall cause to be printed a sufficient number of ballot papers in the prescribed form and subject to section thirty-seven of this Act, cause to be supplied a sufficient number of copies of the roll for use at each polling place.

Presiding officers. No. 38 of 1919, s. 74.

75. (1) The returning officer shall preside at the chief polling place, and a deputy returning officer shall preside at each polling place other than the chief polling place.

(2) Any presiding officer may appoint a substitute to perform his duties during his temporary absence.

(3) No returning officer shall vote at any election of which he is the returning officer except in the case of an equality of votes.

(4) The deputy of any returning officer, if entitled to vote, may vote in like manner as if he had not been appointed and acted as deputy returning officer.

76. (1) Each candidate shall be entitled to appoint, in writing, one scrutineer to be present at each polling place during the election.

Scrutineers.  
No. 88 of  
1919, s. 75.

(2) The appointment of scrutineers shall be made by written notice to the returning officer or deputy returning officer signed by the candidate, giving the names and addresses of the scrutineers, or in case of emergency without such notice by permission and in the discretion of the returning officer or deputy returning officer.

Inserted by  
No. 25 of  
1947, s. 9.

(3) Every scrutineer shall upon his appointment make and subscribe a declaration in the prescribed form in the presence of the returning officer or deputy returning officer.

Inserted  
by No. 25 of  
1947, s. 9.

77. (1) Every returning officer and deputy returning officer shall have power and authority—

Powers of  
returning  
officer, etc.  
No. 88 of  
1919, s. 76.

- (a) to maintain and enforce order and keep the peace at any election in or about any polling place;
- (b) without any other warrant than this Act, to cause to be arrested and taken before a justice any person reasonably suspected of—
  - (i) knowingly and wilfully making a false answer to any of the questions hereinafter mentioned; or
  - (ii) personating or attempting to personate any voter; or
  - (iii) attempting unlawfully to vote at any election oftener than he is entitled to; or
  - (iv) leaving or attempting to leave the polling place after having received a ballot-paper and before having deposited the same in the ballot-box as hereinafter provided;
- (c) without any other warrant than this Act, to cause any person to be removed who obstructs the approaches to any polling place or conducts himself in a disorderly manner, or misconducts himself, or fails to obey the orders

of the returning officer; and any person so removed shall not again be allowed to enter the polling place during the times such election is being held without the permission of the returning officer or deputy returning officer.

(2) All constables shall aid and assist such returning officer and deputy returning officer in the performance of his duty.

Ballot-boxes.  
No. 38 of  
1919, s. 77.

**78.** (1) The returning officer shall provide for each polling place a separate locked box, with a cleft or opening therein capable of receiving the ballot-papers.

(2) Every such ballot-box shall be opened and exhibited to the scrutineers before the polling begins, and shall be then locked and sealed, and shall stand on the table opposite the returning officer or deputy returning officer, who shall keep the key of the said box.

Time of taking  
poll.  
No. 38 of  
1919, s. 78.

**79.** The poll at any election shall commence at ten o'clock in the forenoon and close at eight o'clock in the afternoon of the same day.

Elector to  
vote for full  
number re-  
quired to be  
elected.  
No. 38 of  
1919, s. 79.

**80.** No ballot-paper shall be counted at any election which does not indicate a vote for each of the full number of persons to be elected.

Ballot-papers  
to be given  
to persons  
applying.  
No. 38 of  
1919, s. 80.  
No. 25 of  
1947, s. 10.

**81.** (1) Except as hereinafter provided, every person who is qualified to vote in or for any district or ward, and is desirous of voting at any election, shall present himself to the returning officer or a deputy returning officer, and, if required so to do, shall state his name and address.

(2) Subject as hereinafter provided, if such returning officer or deputy returning officer finds that the name of such person is on the electoral roll, if any, or if when there is no electoral roll such person answers the questions put to him satisfactorily, the returning officer or deputy returning officer shall mark with his initials on the back in such a position to be seen easily when folded to conceal the vote and—

(a) deliver to such person a ballot-paper, or so many ballot-papers as are equal to the number of

votes which such person appears by the electoral roll (if any) to be entitled to give; and

- (b) on the copy of the electoral roll (if any) used by him for the purposes of the election make a mark against the name of such person, to signify that the ballot-paper or ballot-papers to which such person is entitled has or have been duly given to him.

(3) All the ballot-papers to which any person is entitled at such election shall be received by him at one and the same time. And no person, having once received any such ballot-paper or ballot-papers and voted, shall at the same election and for the same district or ward receive any other ballot-paper, or exercise any further right of voting for such district or ward.

(4) Every returning officer or deputy returning officer who fails faithfully to perform any duty imposed upon him by this section by reason whereof any of the requirements of this section are not effectively fulfilled is liable to a fine not exceeding ten pounds.

Inserted  
No. 25 of  
1947, s. 10.

82. Every person to whom a ballot-paper has been given shall, within the polling place, and without leaving the same—

Manner of  
voting by  
ballot.  
No. 38 of  
1919, s. 81.

- (a) retire alone to some unoccupied compartment and there in private mark his vote or votes on the ballot-paper in the manner hereinafter prescribed;
- (b) fold up each ballot-paper so as to conceal the interior and disclose the initials of the returning officer upon the back thereof; and
- (c) in the presence of the returning officer or deputy returning officer, and such scrutineers as are in attendance, deposit such ballot-paper in the ballot-box.

Provided that, in the case of any voter unable to read or write, the returning officer or deputy returning officer, if required, shall, in the presence of such scrutineers as are then in attendance, mark his ballot-paper for him.

How vote to be marked.  
No. 38 of 1919, s. 82.

**83.** The elector shall indicate his vote or votes by making a cross on his ballot-paper in the square opposite the name of the person or of each person for whom he votes.

Questions at elections previous to making electoral roll.  
No. 38 of 1919, s. 83.

**84.** (1) At every election of members for a new district where there is no electoral roll in force, the returning officer or deputy returning officer shall put to every person tendering his vote the questions following:—

- (a) What is your name in full?
- (b) Are you of the full age of twenty-one years?
- (c) Are you a natural born or naturalised subject of the King?
- (d) Are you the occupier or owner, and which, of rateable land within this district [*or the ward of this district, as the case may be*]?
- (e) What is the rateable land in respect of which you claim to vote?
- (f) Have you already voted at this present election?

(2) No person who shall refuse to answer any of such questions, or whose answers to the same shall not show his right to give such vote, shall receive a ballot-paper or be permitted to vote.

Questions to be put to elector at all other elections.  
No. 38 of 1919, s. 84.

**85.** (1) At all elections where there is an electoral roll in force, the returning officer or deputy returning officer may, if he thinks fit, or, if required so to do by any candidate or scrutineer, shall put to any person tendering his vote the questions following:—

- (a) Are you the person whose name appears as A.B. in the roll now in force for this district [*or the———ward of this district, as the case may be*] being enrolled therein in respect of land described to be situated in [*here specify the road or other place described in the roll*]?
- (b) Are you of the full age of twenty-one years?
- (c) Are you a natural born or naturalised subject of the King?
- (d) Have you already voted at the present election?

(2) No person who shall refuse to answer any of such questions, or who shall not answer the first, second, and

third of such questions absolutely in the affirmative, and the fourth of such questions absolutely in the negative, shall receive a ballot-paper or be permitted to vote.

86. (1) An elector who has inadvertently dealt with any ballot-paper in such a manner that it cannot be used as a ballot-paper may, on delivering to the returning officer or other presiding officer the ballot-paper, and proving the fact of the inadvertence to the satisfaction of the officer, obtain another ballot-paper in the place of the ballot-paper so delivered up.

Spoilt ballot-papers.  
No. 38 of  
1919, s. 85.

(2) The ballot-paper so delivered up shall be cancelled and destroyed, and a memorandum of such cancellation and destruction indorsed on the counterfoil.

87. (1) Any elector whose name is on an electoral roll, and—

Voting in  
absence.  
No. 38 of  
1919, s. 86;  
No. 22 of  
1941, s. 5.

- (a) intends to be absent from the district on the day of election; or
- (b) resides more than five miles from the polling place; or
- (c) is prevented by illness or infirmity from attending the polling place,

may at any time after the nomination day make application in writing, in the prescribed form to the returning officer of the district, or of any other district, or to any person whom the Minister may appoint, to vote under the provisions of this section.

Provided that, for the purposes of this section, an elector who resides outside the district but within a distance of five miles from the polling place in such district, shall, notwithstanding that he resides outside the district as aforesaid, be deemed not to be absent from the district within the meaning of paragraph (a) of this subsection merely by reason of such residence.

Inserted by  
No. 19 of  
1943, s. 4.

(2) The returning officer or other person appointed as aforesaid shall then write on each of two counterfoils the name of the district and the ward, if any, for which the applicant desires to vote, together with the name in full and address of the applicant, and shall sign the back of

the ballot-paper, and on the face thereof shall write the name of the district and the ward, if any, as on the counterfoils, and shall give the ballot-paper to the elector.

(3) On one of the counterfoils the prescribed form of declaration shall be printed, and the returning officer or other person appointed as aforesaid proposing to take the vote shall fill in such declaration with the necessary particulars, and the elector shall, before voting, sign, and make such declaration before the returning officer or other person appointed as aforesaid.

(4) The elector shall then write on the ballot-paper the name or names of the candidate or candidates for whom he votes, and shall fold it up and, in the presence of the returning officer or other person appointed as aforesaid, put it into an envelope.

(5) The returning officer or other person appointed as aforesaid shall then seal up the envelope and write "ballot-paper" thereon, and shall put one counterfoil into an envelope and seal it, and write "counterfoil" thereon, and shall then enclose both such envelopes in another envelope and seal it, and if he is not the returning officer of the district shall send the envelopes enclosed as aforesaid to the returning officer of the district.

No. 22 of  
1941, s. 5.

(6) All ballot-papers and counterfoils used under this section shall be in the prescribed form, and be issued by the Minister, and no other form shall be used, and the Minister shall supply to every returning officer or other person appointed for the purpose such number of ballot-papers and counterfoils as shall be necessary, and such returning officer, or other person aforesaid, shall be charged with the duty of keeping the safe custody thereof pending their use in an election. Every counterfoil shall bear a distinct number.

(7) It shall be unlawful for any returning officer or other person appointed as aforesaid to visit any elector, except an elector applying by virtue of paragraph (c) of subsection one, for the purpose of taking his vote, or to take the vote of any elector, except as aforesaid, in any other place than the officer's or such other person's place of residence or business.

(8) The returning officer shall, after enclosing such envelopes as aforesaid, or on receipt thereof, as the case may be, without opening them, retain them in his possession until the commencement of the poll, and shall at any convenient time or times during or immediately after the taking of the poll, in the presence of the scrutineers, if any, proceed to open the same, and shall in each case proceed as follows:—

- (a) He shall compare the counterfoil with the electoral roll or a copy thereof.
- (b) If satisfied from an inspection of the electoral roll or a copy thereof, that the person named in the counterfoil is entitled to vote, he shall make a mark against the name of such person on the electoral roll or copy thereof, and shall then take the ballot-paper from its envelope and, without unfolding the ballot-paper, endorse upon it the number of votes to which the voter is entitled, and deposit it in the ballot-box.
- (c) He shall keep the counterfoil in the same manner as counterfoils of ballot-papers are kept.

Endorsement by the returning officer of the number of votes to which the absent voter is entitled shall be conclusive.

(9) The returning officer, or other person appointed as aforesaid, may put to every person applying to vote under this section any of the questions prescribed in section eighty-four, and subsection two of that section shall apply to persons applying to vote under this section.

(10) An elector voting under this section shall not be required to write any other name than the surname of any candidate for whom he votes unless there are two or more candidates having the same surname, in which case he shall write such christian name, initial, occupation, or residence of the candidate as shall be necessary to indicate for whom the vote is intended to be cast.

(11) No vote given under this section shall be rejected for any mistake in spelling or omission on the elector's part where his intention is clear.

(12) In the case of an election to fill an extraordinary vacancy, an application to vote under the provisions of this section may be made either to the returning officer for the district in which the election is to be held, or to such other person appointed as aforesaid, or to the secretary to the board of any other district, and such secretary may perform the functions of a returning officer under subsections (2) to (7) inclusive of this section.

Deputy returning officers to transmit ballot-papers to returning officer.  
No. 38 of 1919, s. 87.

**88.** Each deputy returning officer shall, immediately on the close of the ballot, seal up the ballot-box containing the ballot-papers taken at the polling place whereat he presided, and shall, with the least possible delay, deliver the same or cause the same to be delivered to the returning officer.

Ascertainment of the poll.  
No. 38 of 1919, s. 88.

**89.** (1) As soon as practicable after the election is held, the returning officer shall, at the chief polling place and in the presence of such candidates and scrutineers as are in attendance, open the ballot-boxes and examine the ballot-papers, and thereby ascertain the result of the election.

(2) The returning officer shall reject as null and void any ballot-paper on which is written any matter or thing which is not justified by this Act to be written thereon, or any ballot-paper by which any elector purports to vote for more or less than the number of candidates to be elected, and any ballot-paper under section eighty-seven, whereon the name or names of the candidate or candidates, as the case may be, for whom the voter votes is or are not intelligibly expressed and in a manner to be commonly understood; but no ballot-paper shall be rejected for mere want of form.

(3) The returning officer shall indorse on any ballot-paper which he rejects the word "rejected," and he shall be the sole judge as to whether any ballot-paper shall be rejected or not: Provided always, that his decision shall be subject to reversal by a magistrate in proceedings under section one hundred.

(4) The returning officer, having ascertained the respective results of such poll, shall then and there declare the name or names of the person or persons who have been duly elected to the respective offices for which such election has been held.

(5) The candidate or candidates to the required number who receives or receive the greatest number of votes shall be elected. In the event of the number of votes being equal for any two or more candidates for such respective offices, the returning officer shall, by his casting vote, decide which of the said candidates shall be elected.

90. A ballot-paper shall not be informal by reason only—

Ballot-papers when not deemed to be informal. No. 38 of 1919, s. 89.

- (a) that the names of the candidate or candidates for whom the elector does not vote are struck out; or
- (b) that a cross placed opposite the name of a candidate is not within the square, if, in the opinion of the returning officer, the intention of the elector is clearly indicated; or
- (c) of the omission of the elector to make a cross in the square opposite the name of the candidate, or, when two or more candidates are to be elected, the names of the candidates for whom he votes, if the names of the candidates for whom he does not vote are struck out;

but effect shall be given to the intention of elector as appearing on the ballot-paper.

91. (1) The returning officer shall, immediately after the declaration of the poll, cause all the parcels of ballot-papers to be sealed up, indorsed with a description of the contents thereof, and delivered to the Minister or some person appointed by the Minister to receive the same, to be safely kept.

Disposal of ballot-papers. No. 38 of 1919, s. 90.

(2) The Minister or the person appointed by him as aforesaid shall, after the expiration of such time as the election can no longer be questioned, cause such ballot-papers, without unsealing the parcels, to be destroyed.

92. (1) The secretary shall, within seven days after every election, make a return in the prescribed form to the Minister, stating the names of the successful candidate or candidates at such election, and their respective offices, for publication in the *Gazette*.

Publication of result of elections in Government Gazette. No. 38 of 1919, s. 91.

(2) The production of a copy of the *Gazette* containing any such notice shall be *prima facie* evidence that the person or persons named therein has or have been duly elected.

Adjournment  
of polling in  
case of riot.  
No. 38 of  
1919, s. 92.

93. When the proceedings at any election are interrupted or obstructed by any riot or violence, the returning officer shall not finally close the poll, but shall adjourn the taking of such poll until the day following, and, if necessary, shall further adjourn such poll until such interruption or obstruction has ceased, when such returning officer shall again proceed with the taking of such poll.

Adjournment,  
when from  
some cause  
no election  
held.  
No. 38 of  
1919, s. 93.

94. (1) If from any cause not being such as in the last preceding section mentioned, after a poll stands appointed for any election, no such poll takes place on the day appointed for the same, the election shall stand adjourned until the same day of the following week, and the returning officer shall give not less than three days' previous notice thereof by advertisement or by placards affixed in public places within the district.

(2) On any adjournment of a poll under this or the last preceding section, the returning officer shall, in the presence of the scrutineers and other officers present—

- (a) cover and seal up the opening in each ballot-box so that nothing can be put in or taken out of such box;
- (b) seal up all unused ballot-papers and all rolls in use at such poll;
- (c) lodge with the secretary for safe keeping all such ballot-boxes, ballot-papers, and rolls, and such ballot-boxes, ballot-papers, and the rolls shall not be opened or unsealed until such adjourned poll is again proceeded with, and then only in the presence of the scrutineers and other officers present.

Errors of  
form not to  
vitiating elec-  
tions.  
No. 38 of  
1919, s. 94.

95. (1) No election shall be deemed to be void in consequence solely of any delay of any of the stages of such election beyond the time appointed, or of any error on the part of the returning officer which does not affect the result of such election, or of any error, defect, or impediment of a merely formal nature.

(2) The Governor may adopt, or cause to be adopted, such measures and make such orders as he deems necessary to remove any obstacle by which the due course of any election is likely to be impeded, or for supplying any deficiency that would otherwise affect the same.

(3) Any such measures and orders shall be forthwith published in the *Gazette*, and shall be valid and have legal effect.

96. No election shall be liable to be questioned by reason only of any want or defect of title of any person by or before whom such election shall have taken place, if such person shall have acted at such election, nor by reason of any formal error or defect in any declaration or other instrument, or in any publication made under this Act, or intended so to be, nor by reason of any publication being out of time.

Election not to be questioned for defect of title.  
No. 38 of 1919, s. 95.

97. No advantage shall be taken of the invalidity of any election in any action or other proceeding by or against the board, but every such action or proceeding shall be tried as if no such objection existed.

Invalidity of election no plea to action.  
No. 38 of 1919, s. 96.

98. (1) (a) If at any election of members no seats or vacancies, or a number of seats or vacancies less than the whole number which should have been filled at such election are filled, then the seats and vacancies which are so not filled shall severally be deemed extraordinary vacancies, and to have occurred on the day appointed for such election, or to which the same may have been or may stand adjourned.

Abortive election.  
No. 38 of 1919, s. 97;  
No. 35 of 1932, s. 13.

(b) If on any day appointed by or under this Act for holding any election of members no election is held, the seats or vacancies which ought to have been filled at such election shall severally be deemed to be extraordinary vacancies, and to have occurred on the day appointed for such election or to which the same may have been or may stand adjourned;

(c) But the members eventually elected to fill such seats or vacancies shall go out of office as if elected at such election.

(2) A fresh election may be held under this section as often as the necessity shall arise, and shall be held at such time and place as the board or chairman shall appoint, and every member elected thereat shall go out of office as if elected at such first-mentioned election.

(3) Every act necessary to be done in order to and for the completion of such election shall and may be done, and shall be valid and effectual for all purposes.

(4) If any act or thing required to be done for the purposes of this section by any board or chairman cannot be done by such board or chairman by reason of there being no quorum of such board, or no such chairman in office, or for any other reason, then the Minister may do such act or thing, or may appoint someone to do the same.

Power to appoint commissioner not affected.  
No. 38 of  
1919, s. 98.

99. Nothing in this division shall affect the power of the Governor to appoint a commissioner under the provisions of Division (4) of Part III, and if a commissioner be appointed no election shall be held until a day appointed by Order in Council for that purpose as hereinbefore provided.

*Division (10)—Disputed Returns.*

Invalid elections, how remedied.  
No. 38 of  
1919, s. 98.

100. Whenever complaint is made to a magistrate by any person who was a candidate at any election, or by any six persons entitled to vote at any election, that any election held within any magisterial district wherein such magistrate has jurisdiction was invalid, or that any other person ought to be returned as a member of the board in preference to the person actually returned as elected—

(a) It shall be lawful for such magistrate to issue a summons summoning the returning officer at such election, and any person returned at such election, and any other persons to appear before himself and such other justices as may then be present, on a day to be named in such summons.

(b) On the parties appearing, or in default of their appearance, on its being shown that such summons was duly served, it shall be lawful for

such magistrate, and at least one other justice having jurisdiction within such district, to investigate the matter of such complaint.

- (c) If on such investigation it appears that such election was invalid, or that any other person ought to have been returned, in preference to the person returned as elected, the court may declare accordingly, and thereupon, if the court declares the said election to have been invalid, the same shall be deemed to have been null and void, and, subject to the power of the Governor to appoint a commissioner, a fresh election shall be held as hereinbefore provided; and if the court declares that any person ought to have been returned in preference to any other person, the latter person shall no longer act as a member of the said board, and the person so declared as aforesaid to have been duly elected shall be deemed, to all intents and purposes, to have been duly elected.
- (d) No such proceedings shall be taken except within three weeks of the day of the election out of which the complaint arises.
- (e) The court may make such order as to costs as it may think right, which may be enforced as an order of a court of summary jurisdiction:

Provided that no order shall be made for payment of costs by a candidate, unless it is proved to the satisfaction of the court that the candidate has by himself or his agent contravened the provisions of this Act.

*Division (11)—Electoral Offences.*

101. To secure the due execution of this part of this Act and the purity of elections, the following acts are hereby prohibited and penalised—

Offences.  
No. 38 of  
1919, s. 100.

- (a) breach or neglect of official duty;
- (b) illegal practices including:—(i) bribery, (ii) undue influence;
- (c) electoral offences.

Breach or neglect by officers.  
No. 38 of 1919, s. 101.

102. "Breach or neglect of official duty" includes—

- (a) any attempt by any officer to influence the vote of any elector, or, except by recording his vote, the result of any election;
- (b) the disclosure of any knowledge officially acquired by any officer or scrutineer touching the vote of any elector;
- (c) any neglect or refusal by any officer to discharge any official duty, and any violation by any officer of any provision of this part of this Act.

Breach or neglect of official duty shall be punishable by a penalty not exceeding two hundred pounds, or by imprisonment not exceeding one year.

Bribery.  
No. 38 of 1919, s. 102.

103. Whoever—

- (a) promises, or offers, or suggests any valuable consideration, advantage, recompense, reward or benefit for or on account of, or to induce any candidature or withdrawal of candidature, or any vote or omission to vote, or any support of, or opposition to, any candidate, or any promise of any such vote, omission, support, or opposition;
- (b) gives or takes any valuable consideration, advantage, recompense, reward, or benefit for, or on account of, any such candidature, withdrawal, vote, omission, support, or opposition, or promise thereof;
- (c) promises, offers, or suggests any valuable consideration, advantage, recompense, reward, or benefit, for bribery, or gives or takes any valuable consideration, advantage, recompense, reward or benefit for bribery,

shall be guilty of bribery.

Definition.  
No. 38 of 1919, s. 103.

104. Without limiting the effect of the general words in the preceding section, "bribery" particularly includes the supply of meat, drink, or entertainment after nomination day, or horse or carriage hire for any elector whilst going to or returning from the poll, with a view to influence the vote of an elector.

105. Whoever—

Undue influence.  
No. 38 of  
1919, s. 104.

(a) threatens, offers, or suggests any violence, injury, punishment, damage, loss or disadvantage for or on account of or to induce any candidature, or withdrawal of candidature, or any vote, or any omission to vote, or any support or opposition to any candidate, or any promise of any vote, omission, support, or opposition; or

(b) uses, causes, inflicts or procures any violence, punishment, damage, loss, or disadvantage for or on account of any such candidature, withdrawal, vote, omission, support, or opposition,

shall be guilty of undue influence.

106. Without limiting the effect of the general words in the preceding section, "undue influence" includes every interference or attempted interference with the free exercise of the franchise of any elector.

Definition.  
No. 38 of  
1919, s. 105.

107. In addition to bribery and undue influence, the following shall be illegal practices:—

Illegal practices.  
No. 38 of  
1919, s. 106.

(a) Any publication of any electoral advertisement, other than an advertisement in a newspaper announcing the holding of a meeting, hand-bill, or pamphlet, or any issue of any electoral notice, without at the end thereof the name and address of the person authorising the same.

(b) Printing or publishing any printed electoral advertisement, hand-bill, or pamphlet (other than an advertisement in a newspaper) without the name and place of business of the printer being printed at the foot of it.

108. Any illegal practice shall be punishable as follows:—

Punishment.  
No 38 of  
1919, s. 107.

(a) Bribery or undue influence, by a penalty not exceeding two hundred pounds or by imprisonment not exceeding one year;

- (b) Any other illegal practice, by a penalty not exceeding one hundred pounds or by imprisonment not exceeding six months.

Penalties in case of nomination of incapacitated persons.  
No. 38 of 1919, s. 108.

**109. Whoever—**

- (a) nominates himself or permits himself to be nominated as a candidate for the office of member of any board, knowing himself to be, under the provisions of this Act, incapable of being or continuing such member; or
- (b) knowingly without being duly authorised, as provided in section sixty-nine, by the person nominated so to do, signs any nomination paper nominating or purporting to nominate as a candidate for the office of member of any board any person incapable of being or continuing such member,

shall for every such offence be liable to a penalty not exceeding twenty pounds.

Prohibition of canvassing near polling-booths.  
No. 38 of 1919, s. 109.

**110.** The following acts are, on polling day, and on all days to which the polling is adjourned, prohibited within each polling-booth, and within a distance of fifty yards from such polling-booth, namely—

- (a) canvassing for votes; or
- (b) soliciting the vote of any elector; or
- (c) inducing any elector not to vote for any particular candidate; or
- (d) inducing any elector not to vote at the election.

Any person offending against this section shall, for every such offence, be liable to a penalty not exceeding twenty pounds.

Electoral offences.  
No. 38 of 1919, s. 110.

**111.** The matters mentioned in the first column of the table at the foot of this section shall be electoral offences punishable as provided in the second column of the table opposite the statement of the offence.

Table of Electoral Offences and Punishments.

First Column—Offences.	Second Column—Punishments.
Personating any person to secure a ballot-paper to which the personator is not entitled, or personating any other person for the purpose of voting.	Imprisonment not exceeding two years.
Fraudulently destroying or defacing any nomination or ballot-paper.	Imprisonment not exceeding two years.
Fraudulently putting any ballot or other paper into the ballot-box.	Imprisonment not exceeding six months.
Fraudulently taking any ballot-paper from any polling place.	Imprisonment not exceeding six months.
Forging or uttering, knowing the same to be forged, any nomination or ballot-paper.	Imprisonment not exceeding two years.
In any polling place on polling day misconducting himself or failing to obey the lawful directions of the returning or deputy returning officer.	Penalty not exceeding fifty pounds or imprisonment not exceeding one month.
Supplying ballot-papers without authority.	Imprisonment not exceeding six months.
Voting or obtaining any ballot-paper for the purpose of voting at any election oftener than he is entitled to.	Penalty not exceeding fifty pounds.
Unlawfully destroying, taking, opening, or otherwise interfering with ballot-boxes or ballot-papers.	Imprisonment not exceeding six months.
Wagering on the result of any election.	Penalty not exceeding fifty pounds.
Wilfully defacing, mutilating, destroying, or removing any notice, list, or other document affixed by any returning officer or by his authority.	Penalty not exceeding two pounds.
Making any false statement in any application, return, or declaration, or in answer to a question under this Act.	Penalty not exceeding twenty pounds.
Wilfully making any such false statement as aforesaid.	Imprisonment not exceeding twelve months.
Distributing any advertisement, hand-bill, or pamphlet, published in contravention of section one hundred and seven.	Penalty not exceeding fifty pounds or imprisonment not exceeding one month.
Canvassing by a salaried officer of a board at any election under this Act.	Penalty not exceeding fifty pounds.
Any contravention of this part of this Act for which no other punishment is provided.	Penalty not exceeding fifty pounds.

Offender may  
be removed  
from polling  
place.  
No. 38 of  
1919, s. 111.

**112.** Whoever in any polling place on polling day misconducts himself, or fails to obey the lawful directions of the returning officer, or presiding officer, may be removed from the polling place by any constable or by any person authorised by the returning or presiding officer.

Further  
punishment.  
No. 38 of  
1919, s. 112.

**113.** Any person so removed re-entering or attempting to re-enter the polling place without the permission of the returning officer or presiding officer shall be guilty of a further electoral offence, punishable on conviction by a penalty not exceeding twice the maximum penalty prescribed in the table for the original offence.

Expenditure  
on behalf of a  
candidate.  
No. 38 of  
1919, s. 113.

**114.** Any person purporting to act for and on behalf of a candidate, and incurring or authorising any electoral expense without the written authority of the candidate or of his agent authorised in writing, shall be guilty of a contravention of this Act.

Liability for  
indirect acts.  
No. 38 of  
1919, s. 114.

**115.** Every person shall be liable for an illegal practice committed directly or indirectly by himself, or by any other person on his behalf, and with his knowledge or authority.

Attempts.  
No. 38 of  
1919, s. 115.

**116.** Any attempt to commit an offence against this part of this Act shall be an offence against this Act punishable as if the offence had been committed.

Certificate  
evidence.  
No. 38 of  
1919, s. 116.

**117.** On any prosecution under this Act the certificate of the returning officer that the election mentioned in the certificate was duly held, and that the person named in the certificate was a candidate at the election shall be evidence of the matter stated.

Hard labour  
may be  
awarded.  
No. 38 of  
1919, s. 117.

**118.** Where imprisonment may be awarded for an offence against this part of this Act it may be awarded with or without hard labour.

Indictable  
offences.  
No. 38 of  
1919, s. 118.

**119.** Offences against this part of this Act punishable by imprisonment exceeding one year are indictable offences.

Summary con-  
viction.  
No. 38 of  
1919, s. 119.

**120.** All offences against this part of this Act which are not indictable offences shall be punishable on summary conviction.

*Division (12)—Ouster from Office.*

121. (1) Where any person holds or exercises office as a member of a board when he is not entitled to do so, the Supreme Court or a judge thereof may, upon the application of the board or of any ratepayer, grant a rule or order calling upon such person to show cause why he should not be ousted from his office.

Ouster from  
office.  
No. 38 of  
1919, s. 120.

(2) If, upon the return of the rule or order, it appears to the court or judge that the person so holding or exercising office is, or was while holding or exercising office not entitled, under the provisions of this Act, to hold such office, the court or judge may make the rule or order absolute, or, if the matter does not so appear, may discharge the rule or order, and in either case with or without costs.

(3) The person against whom any such rule or order is made absolute shall be deemed thereby to be ousted from such office accordingly, and an extraordinary vacancy shall be deemed to have been thereby created: Provided that any person elected to fill such vacancy shall hold office for such term as he would have held it for if he had been elected when the person so ousted was declared elected.

122. (1) Whenever a board shall not observe the provisions of this Act, or in any other case when the Governor shall think fit, the Governor may supersede the board, either wholly or partially, or remove the members of the board or any of them from office, and authorise the Minister to exercise all or any of the functions of the board for such time as he shall think fit, and may also forbid and prevent the filling of any vacancy that exists or may occur on such board until such time as he shall appoint. Notices of such supersession or removal shall be published in the *Gazette*.

Governor may  
supersede a  
board.  
No. 38 of  
1919, s. 121.

(2) The Minister may delegate any power or authority vested in him under this section.

(3) Any member removed from office under this section shall be disqualified for twelve months for re-election as a member of the board.

(4) The Governor may at any time by Order in Council appoint a day for the election of a new board for the district or for the election of a person or persons to fill such vacancy or vacancies as exists or exist on the board, and such election shall be proceeded with accordingly.

Vacation of office.  
No. 38 of 1919, s. 122.

**123.** On the exercise by the Governor of any of the powers conferred by the last preceding section, all the officers of the board shall relinquish their offices unless the Governor shall otherwise direct.

#### PART IV.—PROCEEDINGS OF THE BOARD.

Election of chairman and vice-chairman.  
No. 38 of 1919, s. 123.  
No. 35 of 1932, s. 14.  
No. 48 of 1938, s. 6  
Inserted by No. 48 of 1938, s. 6.

**124.**—(1) At the first meeting of the board of a new district, and at the first meeting of every board after every annual election, the board shall elect one of the members to be chairman and another to be vice-chairman.

Provided that if, by reason of an equality of votes or for any other reason, the board cannot at its first meeting aforesaid elect one of the members to be chairman or one of its members to be vice-chairman, the secretary, or failing a secretary, the person who convened such meeting shall report the fact to the Minister and the Minister may thereupon, by notice in writing under his hand, direct each and every member of the board to attend a particular meeting of the board to be held on a day appointed by the Minister for the purpose of electing a chairman and a vice-chairman or either of them as the case may be, and, if by reason of an equality of votes or for any other reason the board cannot at such particular meeting elect one of its members to be chairman or one of its members to be vice-chairman as the case may be the secretary shall report the fact to the Minister and the Minister may thereupon by notice in writing under his hand appoint a member to be chairman or to be vice-chairman, as the case may be, and the member so appointed by the Minister shall, as from the date of such notice, be the chairman or vice-chairman, as the case may be, accordingly.

Amended by No. 19 of 1943, s. 5.

(2) Subject to the provisions of sections nine and ten of the Justices Act, 1902-1948, the chairman shall, by virtue of his office, be a justice of the peace for the magisterial district in which the office of the board is situated.

125. The chairman and vice-chairman shall, subject to this Act, hold office until the commencement of the first meeting of the board after the next annual election.

Duration of office of chairman and vice-chairman.  
No. 38 of 1919, s. 124.

126. (1) The chairman shall, when present, preside at all meetings of the board.

Chairman, when present, to preside at meeting.

(2) In the absence of the chairman from any meeting, or if, after being present, he retires, the vice-chairman shall preside; but if at any time neither of them is present, then the members present may choose out of their number a member, who shall preside and exercise for the purposes of that meeting, and until the conclusion or adjournment thereof, the powers of the chairman.

Provision in case of his absence.  
No. 38 of 1919, s. 125.  
No. 35 of 1932, s. 14.

127. If and so long as the chairman is unable to act in the exercise of his office through absence from the district, illness, or other cause, then the vice-chairman shall act as and exercise the office of chairman; but if the vice-chairman shall be or become unable from any cause to so act, then the members present at any meeting may choose one of their number, who shall act as and exercise the office of chairman so long as the chairman and vice-chairman continue unable to act.

Provision for the absence of the chairman or his inability to act.  
No. 38 of 1919, s. 126.  
No. 35 of 1932, s. 14.

128. (1) The chairman, vice-chairman, or any member acting as chairman, may resign his office by writing under his hand delivered to the board, at any meeting thereof, or to the secretary of the board; and the position of a chairman, vice-chairman, or acting chairman shall (subject to section one hundred and twenty-five) become vacant if he ceases to be a member.

Resignation of chairman, vice-chairman or acting chairman.  
Provision for casual vacancies.  
No. 38 of 1919, s. 127.  
No. 35 of 1932, s. 14.

(2) In case of such resignation, or of any vacancy occurring in the position of chairman, vice-chairman, or acting chairman, the board shall, in the case of a chairman or vice-chairman, and may, in the case of an acting chairman, elect another member to fill the vacancy and to hold office for the balance of the period of his predecessor's term of office, and on the same conditions.

129. (1) The board may, from time to time, appoint and remove a secretary and such other officers and servants as may be deemed necessary, and may define their duties, and may assign reasonable remuneration for their

Appointment of officers.  
No. 38 of 1919, s. 128.

services: Provided that no secretary shall be appointed or removed without the approval of the Minister: Provided also that the secretary shall vacate his office if so directed in writing by the Minister.

(2) No secretary or other officer entrusted with moneys shall be appointed until he shall have given security to the satisfaction of the Minister for the faithful discharge of his duties by the guarantee of an insurance company or a bond with sureties approved by the Minister, nor shall any officer be continued in his office unless such security is from time to time renewed.

(3) The board may out of its ordinary revenue pay any premium payable in respect of such security.

Remuneration  
on resignation  
or abolition  
of office.  
No. 38 of  
1919, s. 129.  
No. 35 of  
1932, s. 15.

**130.** On the resignation or death of any officer or other employee, or on the cessation or abolition of the office of any officer or other employee, the board may, with the approval of the Minister, cause to be paid to such officer or other employee, or to such of his surviving relatives as the board may think fit, any gratuity not exceeding the amount of one month's salary for each year of the service of such officer or other employee:

Provided that, except in the case of physical and mental incapacity or death, no such gratuity shall be paid unless the officer or employee has served for at least ten years, and no amount exceeding twelve months' salary shall be paid under this section in respect of any officer or employee.

Board meet-  
ings.  
No. 38 of  
1919, s. 130.  
No. 35 of  
1932, s. 16.

**131.** (1) The board shall meet for the transaction of business at such place and at such times as the board may from time to time appoint, and at least once in every three months, unless the district is situated wholly or partly Northward of the twenty-sixth parallel of South latitude, in which case the ordinary meetings of the board may, with the approval of the Minister, be held once in every six months.

(2) The chairman may call a meeting of the board as often as he shall think proper, by notice in writing under the hand of the chairman or secretary, sent to each member at least seven days before such meeting.

(3) If the chairman shall refuse or neglect to call any meeting after receiving a requisition for that purpose, signed by three members of the board, such three members may call a meeting of the board, by serving a notice in writing signed by such three members and stating the business to be transacted, on each of the other members at least seven days before the date of the meeting.

**132.** A quorum of the board shall consist of the major part of the number of members for the time being assigned to the board.

Quorum.  
No. 38 of  
1919, s. 131.  
No. 22 of  
1941, s. 8.

Provided, that where by reason of the absence of any member or members with the leave of the board, or by reason of any other exceptional circumstances, the Minister is satisfied that a major part of the number of members for the time being assigned to the board may not be available to form a quorum at any meeting or meetings of the board, the Minister may, by notice in writing under his hand to the chairman of the board, fix a number of members, less than the major part aforesaid, which shall constitute a quorum during the period specified in such notice, and during the currency of such notice the number of members specified therein shall constitute a quorum of the board.

Inserted by  
No. 22 of  
1941, s. 8.

**133.** (1) At all meetings of the board, save where it is otherwise provided, all the members present shall vote, and the questions there considered shall be decided by open voting, and by the majority present.

How questions  
decided.  
No. 38 of  
1919, s. 132.  
No. 35 of  
1932, s. 17.

(2) Each member, including the chairman, shall have one vote only, and in the case of an equality of votes on any question, such question shall pass in the negative.

**134.** No member shall vote upon or take part in the discussion of any matter before the board in which he has directly or indirectly, by himself or his partner, any interest, or in which any person of whom he is an employee has any interest, apart from any interest in common with the public, and any member who knowingly offends against this section shall be liable to a penalty not exceeding fifty pounds for every such offence.

Member can-  
not vote when  
interested.  
No. 38 of  
1919, s. 133.

Inserted by  
No. 57 of  
1947, s. 2.

Provided that the prohibition imposed by this section shall not apply—

(a) in relation to any matter which may by regulation be declared exempt from the prohibition;  
or

cf. Public  
Acts of Q'ld.,  
Vol. 5, p. 859.

(b) in relation to any matter before the board, to such members as the Minister, subject to such conditions as he may think fit to impose, may declare exempt from the prohibition, where it appears to the Minister that the number of members affected by the prohibition would be so great a proportion of the whole as to impede the transaction of business, and the board, by application in writing to the Minister, setting out the nature and extent (so far as known or believed) of the interest in such matter of each member affected by the prohibition, requests the removal of the prohibition from such members in relation to such matter.

As to adjournment of meetings.

No. 38 of  
1919, s. 134.

**135.** Any meeting of the board may be adjourned, and if a quorum is not present within half an hour of the time appointed for any meeting the members, or member if there is only one present, or the secretary if no member is present, may adjourn such meeting to another day, and notice of such adjourned meeting shall be given to each member.

Provision as to revocation or alteration of resolutions.

No. 38 of  
1919, s. 135  
repealed and  
re-enacted by  
No. 35 of  
1932, s. 18.

**136.** (1) Any resolution of the board may be revoked or altered at the same meeting, if all the members who were present when the resolution was passed are present when the revocation or alteration is proposed.

(2) Any resolution of the board may be revoked or altered at any subsequent meeting, either by the unanimous vote of all the members, or by a vote of the majority of the board, subject in such last-mentioned case to the condition that seven days at least before such subsequent meeting notice in writing thereof and of the proposal to alter or revoke such resolution shall have been given to each member.

137. (1) The board may, from time to time—

- (a) appoint committees, either for general or special purposes;
- (b) delegate to a committee power to do any specific act or hold any inquiry.

Board may  
appoint com-  
mittee.  
No. 38 of  
1919, s. 136.

(2) The chairman shall, by virtue of his office, be a member of every committee, and if present at any meeting shall preside.

(3) Every committee shall report to the board.

(4) A committee shall consist of members only: Provided that the board may, whenever it thinks fit, appoint a committee consisting wholly or partly of persons who are not members, for the purpose of advising the board regarding the establishment, management, or control of any mechanics' institute, cemetery, recreation ground, hospital, agricultural hall, library, reading room, or any other institution or utility vested in or under the control of the board.

No. 35 of  
1932, s. 19.

138. (1) A committee may meet at such time and place as it may think fit, and may adjourn any meeting, but no business shall be transacted unless three members at least are present.

Meetings of  
committee.  
No. 38 of  
1919, s. 137.

(2) If the chairman of the board is not present, one of the members present shall be appointed chairman for the meeting.

(3) All questions shall be determined by a majority of votes of the members present, and in the case of an equality of votes on any question such question shall pass in the negative.

No. 6 of 1933,  
s. 11.

(4) The chairman of every committee shall cause minutes of the proceedings of such committee to be kept in a minute book to be provided for that purpose.

139. No proceedings of the board, or of any committee, or of any person acting as member shall be invalidated in consequence of there being a vacancy in the number of the members at the time of such proceedings, or by reason of the fact that there was some defect in the election or appointment of any person so acting, or that he was incapable of being a member.

Proceedings  
of board not  
to be invali-  
dated by  
vacancy.  
No. 38 of  
1919, s. 138.

Minutes of  
boards.  
No. 38 of  
1919, s. 139.

140. Minutes of the proceedings of the board shall be kept in a book, in which shall be entered the names of the members attending each meeting, and the names of the members voting on each question on which there is a division, and every resolution, order, or other proceeding of the board; and the minutes of the proceedings of every meeting shall be read at the next ordinary meeting of the board, and if found correct shall be signed by the chairman of such meeting, each page of the minutes being signed by him and dated:

No. 35 of  
1932, s. 20.

But a board may by its by-laws provide that pasting or otherwise permanently affixing the minutes to the leaves of a book shall be equivalent to entry therein, and may also provide that the reading of the minutes may be dispensed with when members have been supplied with copies thereof at least three days before the holding of such last-mentioned meeting.

Minutes to be  
evidence of  
proceedings.  
No. 38 of  
1919, s. 140.

141. (1) Any book kept as aforesaid shall on production thereof before any court be received in evidence as conclusive proof of the proceedings entered therein having taken place as therein set out and of the regularity and validity of such proceedings, save in so far as the contrary may be established.

(2) A certificate under the hand of the chairman for the time being and the seal of the board, that any book is a book kept as aforesaid, shall be *prima facie* evidence that such is the fact.

(3) Any document purporting to be or contain a copy of the minutes in such a book or an extract therefrom shall, if it be certified as a correct copy under the hand of the chairman for the time being and the seal of the board, be receivable in evidence, and shall, as regards the matters and proceedings set out therein, have the same probative force as the original book.

Minute book  
to be open to  
inspection.  
No. 38 of  
1919, s. 141.

142. The minute book shall be kept at the office or usual place of meeting of the board, and shall be open to inspection, without fee, on application to the secretary during office hours, by any member of the board, or by any ratepayer or elector of the district.

143. (1) The board shall from time to time provide and maintain a public office within the district, or, if more convenient, without the district, for holding meetings, and for the use of its officers, and for transacting public business relating to the district.

Board to provide office.  
No. 38 of  
1919, s. 142.

(2) Notice of the situation of the office and of the office days and hours shall be published by the board within the district.

(3) If the office is situated outside the district it shall, for the purposes of this Act, be deemed within the district.

144. (1) The board shall hold a general meeting of ratepayers once at least in every year, and at any time upon the requisition of any twenty or more ratepayers stating the business to be presented at such meeting.

General meeting of ratepayers.  
No. 38 of  
1919, s. 143.  
No. 35 of  
1932, s. 21.

(2) Seven days' notice of the time and place of every such meeting shall be given by advertisement in a newspaper usually circulating in the district, and by posting the same on the outer door of the office of the board. Any meeting held as the result of a requisition by ratepayers shall be held on a day not later than one month after the receipt of such requisition.

(3) The chairman of the board, if present, shall preside at every such meeting.

(4) In case of the absence, or after being present, of the retirement of the chairman of the board, the person to preside shall be one of the ratepayers chosen by the ratepayers present.

(5) Such meeting may be held within the district, or, with the consent of the Minister, within an adjoining or neighbouring municipal district, and shall be held in some public hall or building not licensed for the sale of intoxicating liquors.

(6) The latest balance-sheet of the board and report of the auditors shall be produced and read at the commencement of the business of the annual general meeting.

## PART V.—POWERS AND FUNCTIONS OF BOARDS.

*Division (1)—Control of Roads, Reserves, and the Sub-division of land in Districts.*

Power to provide roads.  
No. 38 of  
1919, s. 144.

**145.** Every board shall, subject to this Act, have power to provide and set out roads within its district.

No road of less width than sixty-six feet to be laid out.  
No. 38 of  
1919, s. 145.

**146.** No road shall, without the consent in writing of the Minister, be set out or constructed unless the width of such road, to be ascertained by measuring at right angles to the course of such road from front to front of the boundary line on either side thereof, shall be sixty-six feet at least: Provided that any ways shown on a subdivisional plan duly approved under this Act or any repealed Act shall be deemed to be lawfully set out.

No road to be set out within sixty-six feet of building.  
No. 38 of  
1919, s. 146.

**147.** No road shall be set out or constructed within a distance of sixty-six feet of any permanently constructed building without the consent of the owner thereof, or the order of the Minister, and on payment of such compensation, if any, as the Minister may award.

The Minister may, if he thinks fit, direct the amount of compensation to be determined by arbitration:

Provided that this section shall not apply to town or suburban lands.

Resolution to open new road to be confirmed by Governor.  
No. 38 of  
1919, s. 147.

**148.** Every resolution of the board to open a new road, or to divert an existing road, shall be subject to confirmation by the Governor.

Owner or occupier may require fencing to be erected.  
No. 38 of  
1919, s. 148.  
No. 48 of  
1938, s. 7.

**149.** (1) Within six months of the taking of any land by a board for a road, the owner or occupier may, in writing, require the board to erect along the land taken, on both sides thereof, either at once or at some future time to be specified by such owner or occupier, a fence similar to that on or bounding the land not taken.

(2) If such requisition is duly made within the prescribed time, and the land of the owner by whom the requisition is made was fenced prior to the service upon him of notice of the resolution of the board to open the road, such fencing shall be erected accordingly: Provided that if the land enclosed is held on pastoral lease, or for pastoral or grazing purposes only, the board may,

instead of erecting fencing, erect gates, or gates and motor traffic passes in the fences through which a road is required to pass.

(3) Every motor traffic pass erected by a board under the authority of the proviso to subsection (2) of this section shall be of such design and description and shall be erected with such material and in such manner as may be required and approved by the Commissioner of Main Roads.

Inserted by No. 48 of 1938, s. 7, as ss. (2a), now renumbered (3).

(4) The expense of making and erecting such fencing or gates, or such gates and motor traffic passes shall be borne by the board, but any native growing or dead timber required for the purpose may be taken by the board or any person acting with the authority of the board from such enclosed land without any liability to compensate the owner or occupier.

Formerly (3).

(5) The expense of keeping such fencing or gates, or such gates and motor traffic passes in thorough repair shall thereafter be borne by the owner or occupier of the land on which such fencing or gates, or such gates and motor traffic passes are erected.

Formerly (4).

(6) In case of default of such owner or occupier, the board may effect such repairs and recover the expense from such owner or occupier in any court of competent jurisdiction.

Formerly (5).

(7) Where land is taken to deviate an existing road, the liability of a board to fence shall extend only to the portion of the road so diverted.

Formerly (6).

150. (1) On the confirmation by the Governor of the resolution of the board to open a new road, or to alter the line of an existing road, the Minister shall cause notification thereof to be published in the *Gazette*, and thereupon such road, or altered line of road, shall become a road within the meaning of this Act.

Notification of new road. No. 38 of 1919, s. 149.

(2) On any such altered line of road so becoming a road, the road for which it has been substituted shall be deemed to have been closed in manner prescribed in section one hundred and fifty-one, and the consequences set out in that section shall thereupon ensue.

Board may  
close a road  
permanently.  
1919, s. 150.

**151.** (1) If—

- (a) the majority present at a meeting of the rate-payers of a district, convened in the prescribed manner, pass a resolution in favour of the closure of a road; or
- (b) the owner of any land abutting on any road or portion of a road, or over, or along which any road or portion of a road passes makes application to the board in writing to close the road, giving full particulars of the road, with reference to its locality and dimensions, and the owners and occupiers on each side thereof, and (to the best of the applicant's information and belief) how it became a road, whether by resumption, dedication, or otherwise; and
- (c) the board assent to such resolution or application, the board, after giving public notice thereof, shall request the Minister to obtain the Governor's confirmation of such assent.

(2) The Governor may confirm or overrule such assent.

(3) On the confirmation by the Governor of such assent, the land on which such road existed (hereinafter called the closed road) shall again form part of the location or other holding from which it was originally taken, and every part of the closed road shall vest in the owner for the time being of the land fronting such part, and if the lands on opposite sides of any such part of the closed road are owned by different owners, the contiguous half of such part to the middle thereof shall vest in each owner, and for the purposes of this subsection the term "owner" shall include the Crown, and any person having an estate or interest in the land.

No. 35 of  
1932, s. 22.

The estate or interest for which any part of a closed road shall be vested hereunder shall be the same as the estate or interest which the owner of the land fronting such part has in such land, and the Registrar of Titles or the Under Secretary for Lands, as the case may require, shall make, free of charge, such alterations in any lease from the Crown issued under the Land Act, 1933-1948, and under his control, as may be necessary to show that any part of a closed road affected by this subsection has vested in the owner of the land comprised in such lease.

If the land fronting any part of the closed road is under the Transfer of Land Act, 1893-1946, the Registrar of Titles shall, on the application of the owner, and on the payment of the prescribed fee, cancel the relative certificate of title and issue a new one, in which he shall include the part of the closed road vested in such owner by virtue of this subsection.

If any land comprised in a lease from the Crown or certificate of title, and fronting any part of such closed road is subject to a mortgage or encumbrance as regards any estate or interest therein, then such part of the closed road shall, on the making of such alteration, or the issue of such a new certificate of title showing the vesting thereof as aforesaid, become subject to the mortgage or encumbrance as if it had been originally included therein by the owner of such estate or interest.

(4) Public notice of such confirmation of any such resolution or application shall be given by the board or the Minister on behalf of the board, by advertisement in the *Gazette* and in a newspaper circulating in the district and by notice to be exhibited at each end of the road.

(5) In the case of an application, the public notices required by this section shall be given at the applicant's cost.

(6) When any road is closed, and a new road made in lieu thereof through land belonging to the same person as that through which the closed road passed, then such person shall accept the closed road in exchange for the land required for the new road, subject to payment by the board to such person or by such person to the board of such sum as shall be just by way of equality of exchange.

(7) If a board refuses to assent to any such resolution or application as aforesaid, the Minister may assent thereto in lieu of the board, and the same consequences shall ensue as if the board had assented, and such assent had been confirmed by the Governor.

152. The Minister for Lands, on the recommendation of the board, may close a road temporarily from traffic and grant permission to the owner of the land adjoining to fence across such road without erecting gates, at the

Temporary  
closure of  
road.  
No. 38 of  
1919, s. 151.

board's pleasure, when in the opinion of the board the road should not be permanently closed, but is not required for immediate traffic.

No. 35 of  
1932, s. 23.

The Minister may at any time revoke such closure and withdraw any such permission, and thereupon the road shall become again open to traffic, and any fences erected shall be removed, without prejudice, however, to the powers of the board under section one hundred and eighty-nine.

No right-of-  
way over  
Crown lands  
unless offici-  
ally marked.  
No. 38 of  
1919, s. 152.

153. No public right-of-way shall be acquired or be deemed to exist over unoccupied Crown land, unless such right-of-way has been officially marked upon some plan in the Department of Lands and Surveys.

Board may  
close track  
not gazetted  
as a road.  
No. 38 of  
1919, s. 153.

154. The board may, by resolution duly passed by the board and notified in the *Gazette*, close any track over which a public right-of-way has been acquired, but which has not been declared or notified as a road in the *Gazette*, and thereupon all public right-of-way over any such track shall cease and determine:

Provided that—

- (a) at any time within three months after the notification of the closure of any such track any person who shall think himself aggrieved by the closure may appeal therefrom to the Minister; and
- (b) the Minister may on such appeal, either confirm the closure of the track, or disallow the same; in which latter case, on publication of the decision of the Minister in the *Gazette*, the resolution of the board to close the track shall be deemed to be annulled.

Powers over  
reserves.  
No. 38 of  
1919, s. 154.

155. Whenever any reserve (other than a common) is vested in or placed under the control of a board, then, subject to the Permanent Reserves Act, 1899, the board shall (in addition to any powers and functions vested in it under this Act or the Land Act, 1933-1948\*) have and discharge in respect of the reserve such powers and functions as would be vested in it if it were a Board of Parks

See Land Act,  
1933, Part  
III.

and Reserves to which the reserve had been committed under the Parks and Reserves Act, 1895,\* subject to such restrictions as the Governor may impose.

156. In every case where a reserve has heretofore been leased or hereafter is leased to a board for a term of nine hundred and ninety-nine years, or has heretofore been granted or hereafter is granted in fee simple to a board under the provisions of section thirty-four of the Land Act, 1933-1948, then, subject to the Permanent Reserves Act, 1899\*\*, the board may from time to time grant a lease of such reserve or any part thereof for any term at such rent and under and subject to such conditions as the board may deem expedient:

Power to boards to lease certain reserves.  
No. 38 of 1919, s. 154A, inserted by No. 35 of 1932, s. 24.  
See Land Act, 1933, Part III.

Provided that no such lease shall be granted for a term exceeding three years without the consent in writing of the Governor:

Provided also, that any such lease granted as aforesaid shall restrict the user of the land demised to purposes consistent with the purposes for which such land was reserved, and shall contain a covenant by the lessee that he will use the land demised by the lease only for purposes consistent with the purposes for which the said land was reserved.

157. (1) Whenever a person, who is the owner of rateable land in a district, subdivides the same into allotments for sale, he shall forthwith give notice in writing, accompanied with a plan of subdivision, to the board.

Notice of subdivision to be given.  
No. 38 of 1919, s. 155.

(2) [*Repealed by the Town Planning and Development Act, 1928, section 29 (4).*]

(3) Where a plan of subdivision provides for the opening of a public road, such plan shall be accompanied by plans (giving longitudinal and cross sections of the proposed public road), and specifications thereof, and such other information as to levels, drainage, nature of soil, physical features, and the name proposed to be given to the road, as may be necessary for the board when considering whether or not the plan of subdivision shall be approved. In respect of such proposed public road the

No. 35 of 1932, s. 25(a)

\* Now Parks and Reserves Act, 1895-1947.

\*\* Repealed by Land Act, 1938-1948.

board may require any alterations in the plans or specifications, and impose such other conditions as the board may deem necessary (including the alteration of the name of such road) before approving the said plan of subdivision: Provided that nothing in this subsection shall apply to land outside any townsite.

No. 35 of  
1932, s. 25  
(c)\*.

(4) Notwithstanding that a plan of subdivision has been approved as required either by this Act or the Town Planning and Development Act, 1928-1947, in every case where such plan of subdivision provides for the opening of a public road, no allotment shown in such plan of subdivision shall be sold either for cash or on terms, or in any other manner alienated by the owner thereof, until such time as the said public road has been constructed and drained to the satisfaction of the board, in accordance with plans and specifications approved, and with any other conditions relating thereto imposed by the board when approving such plan of subdivision: Provided that, where there are more than one of such public roads, it shall be sufficient if, in respect of any particular allotment offered for sale or other disposition, that public road furnishing the nearest access to such allotment has been constructed and drained as aforesaid: Provided also, that this subsection shall not apply to any land the subdivision whereof had been approved prior to the commencement of this subsection.

(5) When a plan of any such subdivision is deposited in the Office of Titles, and approved by the Inspector of Plans and Surveys or other officer appointed to approve plans, and a transfer of one or more lots (not being the whole of the land on such plan) is registered, then as from the date of registration of such transfer any land delineated and shown as a new road on such plan shall become dedicated as a road, and shall be under the control of the board:

No. 35 of  
1932, s. 25  
(b).

Provided that no way not exceeding sixteen and a half feet in width shall be dedicated or be deemed to have become dedicated as a road by virtue of anything in this subsection or subsection four of section three hundred and twenty-eight of the Roads Act, 1911.

\* Subsection 4 as enacted by No. 38 of 1919, s. 155, was repealed by the Town Planning and Development Act, 1928, section 29 (4).

(6) [*Repealed by the Town Planning and Development Act, 1928, section 29 (4).*]

(7) [*Repealed, Ibid.*]

(8) [*Repealed, Ibid.*]

(9) [*Repealed, Ibid.*]

(6) The owner of any land subdivided into allotments shall, if so required by the board, assign a name to the subdivided area, but such name shall be subject to the approval of the board.

Formerly  
(10).

If the name assigned to an area subdivided into allotments, after the commencement of this Act, is in the opinion of the board misleading, or otherwise objectionable, the board may require the owner to change such name to a name to be approved by the board, and the name shall be changed by the owner accordingly, and the use of the name objected to shall be discontinued:

Provided that the Minister may, on appeal, reverse or confirm any action of the board under this subsection.

(7) If any person contravenes, by act or omission, any provisions of this section, he shall be guilty of an offence against this Act, and liable to a penalty not exceeding fifty pounds.

Formerly  
(11).

[*Section 156 of No. 38 of 1919, repealed by the Town Planning and Development Act, 1928, section 29 (4).*]

[*Section 157 of No. 38 of 1919, repealed by the Town Planning and Development Act, 1928, section 29 (4).*]

**158.** Subject to the Public Works Act, 1902-1945, there shall vest in the board of the district in which the same respectively are—

Roads and material thereof vested in board.  
No. 38 of 1919, s. 158.

- (a) all roads and the materials thereof, and all things appurtenant thereto;
- (b) all buildings, fences, gates, posts, boards, stones, and erections placed upon any road; and
- (c) all ornamental trees and shrubs and, subject to the provisions of the Forests Act, 1918-1931, the timber upon any road within the district,

and the board shall have the care, control, and management thereof.

The rights conferred on boards by any Act hereby repealed to the timber on roads are hereby divested, so far as roads are situated within State forests or timber reserves, but subject to the proviso to section sixty-nine of the Forests Act, 191-1931.

Notice of sale  
of land to be  
given to board.  
No. 38 of  
1919, s. 159.  
No. 35 of  
1932, s. 26.

**159.** (1) Whenever any person sells or otherwise disposes of any rateable land he shall within twenty-one days thereafter give to the board notice thereof in writing, with a plan or description of the land and the name and address of the purchaser.

Any person who fails to comply with this section shall continue to be liable for such sums accruing by way of rates upon such land in the same manner as if he were still the owner thereof, and shall also be guilty of an offence against this Act and liable to a penalty not exceeding five pounds.

(2) Before any owner, or the agent of the owner, removes or demolishes, or begins to remove or demolish, any house or other building erected on land situate within a townsite, he shall give to the board not less than seven days' notice in writing of his intention so to do.

Penalty: Ten pounds.

### *Division (2)—Works and Undertakings.*

Powers of  
board.  
No. 38 of  
1919, s. 160;  
No. 48 of  
1934, s. 2;  
No. 48 of  
1938, s. 8;  
No. 22 of  
1941, s. 7;  
No. 5 of 1942,  
s. 4.  
General  
management  
of roads, etc.

**160.** A board may, subject to this Act—

(1) make, form, alter, level, grade, pave, improve, repair, maintain, light, water, cleanse, and keep in good order and condition all roads and other public places within the district and all bridges, culverts, drains, water-courses, stockyards, and other places which are under the control of the board, and do all acts and things necessary for or incidental to the proper management thereof;

(2) fill in, cover, or otherwise protect abandoned mining shafts, whether on main roads or

Power to fill  
in abandoned  
mining shafts.

otherwise, for the protection of the travelling public, and utilise its funds in so doing, or join with other local authorities in carrying out such work.

- (3) construct and maintain sea or river jetties, bathing enclosures, and bathing houses; Jetties and bathing houses.
- (4) construct, sink, improve, and maintain tanks, wells, dams, and reservoirs, and bore or otherwise search for water for the purpose of providing a water supply; Water supply. Amended by No. 35 of 1932, s. 27.
- (5) with the approval of the Governor, contract with any person or any department or agency of His Majesty's Government of the State or the Commonwealth for the supply of water, or purchase from any such person, department, or agency of waterworks for the purpose of providing such a supply; Agreements for supply of water or purchase of waterworks.
- (6) with the consent of the Minister render any such supply as aforesaid available by means of reticulation or otherwise on the respective premises of any owners or occupiers of land within the district; Reticulation.
- (7) for the purpose of carrying out any work authorised under paragraphs (4), (5), or (6), exercise any such power or discretion as might be exercised by a Water Board under section forty-six or forty-seven of the Water Boards Act, 1904-1949; Powers incidental to supplying water.
- (8) subject to the Electricity Act, 1945, acquire, by purchase or otherwise, works as defined in that Act; and sell or supply or contract with any other person to sell and supply electricity for any lawful purpose to any person or local authority or to His Majesty's Government of the State or Commonwealth, or any department or agency thereof, and provide the material for and construct and maintain all works necessary for reticulation, and supply all necessary fittings and appliances to consumers, and if the board thinks fit, on a system Electric power. Amended by No. 48 of 1932 s. 8.

of deferred payment (if so approved by a majority of the ratepayers on the question being submitted to them in the prescribed manner), and exercise for any of these purposes any power set out in the said Act;

Guarantee by board to supplier.  
Inserted by No. 22 of 1941, s. 7, as (8a), now re-numbered (9).

(9) in the event of the board contracting with any person for the sale and supply by such person of electricity to consumers within the district of the board (including the board as such a consumer) give to such person a guarantee in respect of the amount of the gross revenue to be received by such person from the sale and supply of electricity to consumers within the district of the board.

Gas.

(10) establish or acquire by purchase or otherwise gas-works for the supply of gas, and sell or supply gas for any lawful purpose to any person or local authority or to His Majesty's Government of the State or Commonwealth or any department or agency thereof;

Drains and water-courses.  
No. 35 of 1932, s. 27.

(11) in and through any lands within the district, make and open such ditches, gutters, tunnels, drains and water-courses for the drainage of any road or other land vested in the board, or any private land as to the board may seem fit, and scour, cleanse, and keep open the same, and, for any of the purposes aforesaid, enter upon any land; but the board shall make compensation to the owners and occupiers thereof for any damage they may sustain through the exercise of any of the powers conferred by this paragraph; provided that the power conferred by this paragraph shall not be exercised in connection with or for the purpose of the drainage of any private land except with the approval of the Governor; provided the cost of such work is estimated not to exceed one hundred and fifty pounds;

Drainage from roads.

(12) drain the waters falling or flowing upon a road into the lands adjacent thereto, upon paying compensation to the owners and occupiers of such lands;

Provided that no compensation shall be payable when the drainage follows the natural flow of the water;

- (13) plant and maintain trees and shrubs on any roads or on any public place;

Tree-planting.
- (14) improve (whether by the erection of buildings or otherwise) reserves, recreation grounds or other land vested in, acquired by or placed under the control of the board, or the foreshore of any river or of the sea within or adjoining the boundaries of the district;

Reserves.  
No. 35 of  
1933, s. 27.
- (15) acquire, provide, establish, maintain and improve parks, gardens and other places for the purposes of public recreation and enjoyment;

Parks,  
gardens, etc.  
No. 28 of  
1928, s. 2.
- (16) with the consent of the Minister, construct or authorise the construction, temporarily, of tramways upon, over, or across any road or public place, and use or permit the use thereof;

Temporary  
tramways.
- (17) during such time as any road or public place or any part thereof shall be under repair or alteration or during the making, altering, or repairing of any bridge or drain, or other necessary work in such road or place, prevent the passing of vehicles and animals by causing such fences and barriers to be placed on or across any such road or place as the board may deem proper; but so that during the time that such fences or barriers shall be continued there shall be affixed thereon such lights during the night as shall be sufficient to prevent injury or danger to vehicles and passengers, and where needed and practicable passable and suitable side tracks shall be provided:

Temporary  
closing for  
repairs.

Provided that the board shall observe any order or direction the Minister may think fit to make or give for the prevention of any undue or avoidable restriction of traffic:

Provided also, that no road shall be closed to traffic by virtue of the power conferred by this paragraph, for a longer period than

No. 35 of  
1932, s. 27.

twenty-eight days, or for periods aggregating more than twenty-eight days in any period of twelve months, without the previous permission of the Minister;

Deposit of  
road material.

- (18) for the purpose of repairing any road, cause road metal or material to be placed upon any roadway, clear of the made portion thereof: Provided that no such metal or material shall be placed on any road so as to obstruct any other road, whether public or private, intersecting the same, or the entrance or approach to any private land;

Clearing of  
poisonous  
plants.

- (19) clear any road, reserve, or common of poisonous plants;

Seats.  
No. 35 of  
1932, s. 27.

- (20) erect and maintain seats, shelter sheds, and other conveniences on roads and public places;

Passenger  
transport  
service.  
No. 35 of  
1932, s. 27.

- (21) provide or acquire, establish, conduct, and carry on or subsidise any ferry or passenger transport service by land or water within the district or (with the consent of the local authority of any area outside the district) partly within the district and partly within such area, and make the prescribed passenger or transport charges in respect of any service carried on by the board, and, with the consent of the Minister, exercise any such power as aforesaid in conjunction with any other competent local authority;

Hospitals.

- (22) subsidise any district nursing system, or hospital, public or private, for the reception of the sick, established within or without its district, or any duly qualified medical practitioner;

Provision of  
homes for em-  
ployees.  
No. 28 of  
1928, s. 3.  
No. 5 of 1942,  
s. 4.

- (23) erect, on any land vested in the board or acquired for the purpose, or purchase houses to be leased to, and used as homes by, employees of the board, and maintain and make use of such houses and land for the purposes aforesaid as long as the board may deem expedient, with power to sell and dispose of the same when no longer required for such purposes: Provided that no freehold estate in any such

house or land shall be granted to any employee, and that the money required for the erection or purchase of any such house or the acquisition of any such land may, subject in every case to the approval of the Minister, be expended out of the ordinary revenue of the board or otherwise out of loan moneys raised for the purpose under Part VII of this Act;

- (24) subsidise any agricultural society subject to the discretion and approval of the Minister, up to a sum not exceeding in the aggregate three per centum of its general revenue; Subsidies to agricultural societies.  
No. 35 of 1932, s. 27.  
No. 6 of 1933, s. 12.
- (25) join with any other local authority in the exercise of any such power as is conferred by either paragraph (21) or paragraph (22) or (with the approval of the Governor) in the exercise of any power conferred by paragraphs (4), (5), (6), (7), (8), or (10) hereof, or section one hundred and sixty-five, or the Electricity Act, 1945; Joint subsidies.
- (26) undertake the management and control of any public cemetery within its district, and for such purpose the board may be appointed the trustees thereof, and may apply its revenue to such purposes, and may delegate its powers and duties in respect of any cemetery to a committee of its members; Cemeteries.
- (27) with the approval of the Minister demise to the Western Australian Government Railways Commission the right for such term and subject to such conditions as may be thought fit to lay down and construct upon, across, or along any portion of any road such lines of rails as the Commission may think necessary, and to run engines, trucks and rolling stock thereon, and to use such portion of the road as a railway siding or part of a railway and to exercise such accessory powers as may be thought necessary: Provided that any such term may be brought to an end by the Minister at any time, but during the continuance thereof the portion of the road affected shall be deemed to Railway sidings.

be part of a railway within the meaning of the Government Railways Act, 1904-1948, which Act shall, subject to the special provisions of the demise, apply thereto accordingly;

Quarries.  
No. 35 of  
1932, s. 27.

(28) acquire and work quarries or gravel pits and employ persons, and provide machinery, apparatus, and plant for such work; and open and develop quarries and gravel pits in any suitable lands within the district, and erect or acquire lighting plant and cooling chambers;

Inserted by  
No. 48 of  
1934, s. 2, as  
(28), now  
renumbered  
(29).

(29) establish or acquire by purchase or otherwise works or premises for the manufacture and supply of ice, and sell or supply ice for any lawful purpose to any person or local authority or to His Majesty's Government of the State or Commonwealth or any department or agency thereof: Provided that the powers conferred by subsection (29) of this section shall, until Parliament otherwise declares, be exercisable only by Meekatharra Road Board districts and within those districts in the State (including Dalwallinu) where the only suitable electricity generating station is owned by the local authority;

Amended  
No. 64  
of 1946, s. 4.

Inserted by  
No. 48 of  
1938, s. 8, as  
(29), now re-  
numbered  
(30).

(30) provide and maintain within its district aerial landing grounds and aerodromes, and join with any other board or municipal council whose district adjoins or is adjacent to the district of the board, in providing and maintaining in the district of such other board or municipal council aerial landing grounds and aerodromes;

Hostels for  
school  
children.  
Inserted by  
No. 46 of  
1946, s. 2.

(31) construct or acquire by purchase or otherwise and establish premises within its district for the purpose of providing hostels for school children and maintain and control such premises when so established and join with any other board or municipal council whose district adjoins or is adjacent to the district of the board in constructing or acquiring by purchase or otherwise and establishing in the district of such other board or municipal council

premises for the purposes aforesaid and in maintaining and controlling such premises when so established;

- (32) establish and maintain or subsidise either alone or in conjunction with any other road board or any municipal council kindergartens, community centres, maternal health centres, infant health centres, creches, day nurseries, dental clinics and ambulance services whether within the district of the board, or elsewhere when in the opinion of the board the expenditure thereby incurred will directly or indirectly benefit persons residing in the district

Provision of kindergartens, etc. Inserted by No. 64 of 1946, s. 4. Amended, No. 25 of 1947, s. 11.

S. 160 amended.

2. Section one hundred and sixty of the principal Act is amended by adding after paragraph (34) the following paragraph:—

- (35) undertake the control and management of an acclimatisation district proclaimed under the provisions of Part IIIA. of the Fisheries Act, 1905-1956, in respect of which the board is registered as a trout acclimatisation society under such Act, and apply its revenue to the purposes of such control and management, and delegate its powers, authorities and functions in respect of any such acclimatisation district to a committee of its members.

Trout acclimatisation districts.

161. If any land is substantially and permanently increased in value by drainage works undertaken by the board on any road or other land vested in the board, the following provisions shall apply:—

Provision in case land increased in value by drainage works undertaken by the board. No. 38 of 1919, s. 160A, inserted by No. 35 of 1932, s. 28.

- (a) The board may require the owner of such land to contribute towards the cost of the works (whether defrayed out of borrowed money or otherwise) such annual amount for such term of years as the board may think fit:

Provided that the owner of such land may require the question whether the land has been increased in value as aforesaid, and the annual amount and duration of such contribution to

the cost, to be determined by arbitration under the provisions of the Arbitration Act, 1895.

- (b) Such contribution as aforesaid shall be imposed by order of the board entered in the minute book and served on the owner, and each annual amount payable shall be recoverable by the board from the owner of the land for the time being under Part VI of this Act, and shall be a charge on the land as if it were a rate duly imposed by the board.

Owners to pay half-cost of paving footways.  
No. 38 of 1919, s. 161.  
No. 35 of 1932, s. 29.  
No. 64 of 1946, s. 5.

**162.** In any townsite and in any area specified by the Governor by proclamation in the *Gazette* one moiety of the expense incurred by the board in paving or kerbing and making any footway, or part of such footway, shall if and when demanded by the board be repaid to the board by the several owners of all rateable lands abutting on any such footway or part thereof, apportioned according to the respective frontages of such lands abutting on the footway or part thereof, and may be recovered from such owners by the board in any court of competent jurisdiction:

Provided that, when a footpath is permanently constructed or paved, ratepayers may not be charged for further improvements thereto without their consent in writing being first obtained.

Limitation on power to contract for supply of water or purchase of waterworks.  
No. 38 of 1919, s. 162.

**163.** (1) No contract for the supply of water or for the purchase of waterworks for the purpose of providing a water supply, in exercise of the power conferred by section one hundred and sixty, shall be entered into by a board, unless and until the proposal shall have been submitted to and approved by the resident owners, as defined by section two hundred and ninety-nine.

(2) Such submission shall be made, and the votes of the resident owners taken in manner set out in sections two hundred and ninety-nine and three hundred.

Limitation of power to supply electricity or gas.  
No. 38 of 1919, s. 163.

**164.** No board shall supply any electric power or light or any gas outside the limits of its district, unless the Governor shall previously have authorised the board so to do by proclamation or notice published in the *Gazette*, specifying the limits within which such supply may be made.

165. For the purpose of the establishment and maintenance of gasworks and the supply of gas by a board, such board shall have and may exercise all such rights, powers, and privileges, and shall be subject to all such duties, obligations, and liabilities as are conferred or imposed upon a local authority under the Electricity Act, 1945, for the purposes of that Act; and the provisions of that Act are incorporated herewith for the purpose aforesaid, subject to the alterations following, that is to say: the word "gas" shall be substituted for "electricity," and the words "pipe for the supply of gas" for "electric line," and the words "buildings, gasometers, pipes, and other plant and things used in connection with the manufacture or supply of gas" shall be substituted as the interpretation of the term "works."

Powers incidental to the supply of gas.  
No. 38 of 1919, s. 164.

166. Any dispute or difference as to the amount of any compensation payable under section one hundred and sixty shall be referred to arbitration.

Determination of compensation.  
No. 38 of 1919, s. 165.

167. Any sea or river jetty the approach to which is within a district shall, if the Governor so directs, be deemed to be within the district, and if such jetty is a public jetty it shall, if the Governor so directs, be under the management and control of the board of the district.

Jetties.  
No. 38 of 1919, s. 166.

168. The Governor may, subject to the provisions of the Public Works Act, 1902-1945, place under the control and management of the board, any road, bridge, well dam, tank, reservoir, building, machine, or other work or thing in the district (being the property of His Majesty's Government of the State), on such terms and conditions as to the Governor may seem fit, and may at any time alter or rescind any such order.

Governor may place certain works under control of boards.  
No. 38 of 1919, s. 167.

169. (1) Where a board, with the approval of the Governor, has constructed any works under the power conferred by paragraph (11) of section one hundred and sixty of this Act in connection with or for the purpose of the drainage of private land, the cost of constructing, maintaining, and repairing such works, including the amount of any compensation paid by the board to

Provision for recovery of cost of drainage works by the board.  
No. 38 of 1919, s. 168 repeated and new section inserted by No. 35 of 1932, s. 30.

owners of land through or upon which such works are constructed, shall be payable to the board by the owners of the land which is drained by such works.

(2) When the cost as aforesaid has been ascertained the board shall apportion the amount thereof between the owners of the land liable under subsection one hereof to pay such cost to the board, in such amounts as are, in the opinion of the board, proportionate to the value of the benefit derived by each of such owners respectively from the said works:

Provided that if any dispute shall arise between any person and the board as to whether such person derives any such benefit or as to the value of such benefit, such dispute shall be referred to the Minister, whose decision may, on appeal, be determined by the provisions of the Arbitration Act, 1895.

(3) The amount for which any person is liable on the apportionment of the said cost as aforesaid shall be a debt due by such person and, until paid in full, by every subsequent owner in succession of the same land to the board. Such debt shall be recoverable by the board in the same manner as rates levied upon the same land are recoverable under this Act, and, until paid, shall be a charge against the said land.

*[Section 168 of No. 38 of 1919, repealed by section three of the Land Drainage Act, 1925.\*]*

---

\* It is enacted by subsection (2) of section twenty of the Land Drainage Act, 1925-1941, that "every appointment heretofore made under section one hundred and sixty-eight of the Road Districts Act, 1919, shall, after the commencement of this Act, have effect as if it were an Order in Council under this section"

The repealed section was as follows:—

168. (1) The Governor may appoint the Board a Drainage Board for any drainage district constituted within the road district.

(2) Upon the publication of the Order in Council in the *Gazette* the following provisions shall apply:—

- (a) The Board may, within the drainage district, exercise the powers and shall perform the duties of a Drainage Board elected under the provisions of the Land Drainage Act, 1900, or any amendment thereof.
- (b) All drains and drainage works constructed within the drainage district under the said Act shall be vested in the Board.
- (c) The members of any Drainage Board appointed or elected for such district under the provisions of the said Act, and the officers of such Board, shall go out of office.
- (d) The assets, liabilities, contracts, and engagements of the Drainage Board shall become vested in, and shall attach to the Road Board, and may be recovered and enforced by or against the Road Board.

- 170.** Every bridge, ferry, or jetty of which the Board has the management or control shall be deemed to be situated within the district of the board.
- Bridges, etc., under control of board.  
No. 38 of 1919, s. 169.
- 171.** The Governor may exempt from the jurisdiction of the board any road or bridge or any public work connected therewith, or any portion of a district required for use in connection with any road, bridge, or public work.
- Governor may exempt roads, etc., from the control of board.  
No. 38 of 1919, s. 170.
- 172.** Every person who displaces, takes up, or makes any alteration in the soil, or other material of any road, path, or footway, or of any public place or reserve, vested in or under the control of the board, or any fence thereon, or removes any scrapings thereof or sand thereon without the consent in writing of such board, shall be liable to a penalty not exceeding five pounds, and also a further penalty not exceeding ten shillings for every square foot of the materials of the road, path, or footway, place or reserve, exceeding one square foot so displaced, taken up, or altered.
- Displacement, etc., of materials of roads.  
No. 38 of 1919, s. 171.
- 173.** The board may use engines propelled by steam upon any street or way for the purpose of making and rolling the same:
- Steam road roller.  
No. 38 of 1919, s. 172.
- Provided that barriers shall be provided and fixed, when practicable and not inconvenient, at the ends and in sections of streets or ways to prevent ingress or egress during the time a street or way is undergoing rolling with a steam roller.
- 174.** When it is necessary, in order to drain any road, public place, or land (public or private) within a district, that a drain should be carried through any portion of any other district or any municipal district, the Minister may authorise the board of the first-mentioned district to construct and maintain any drain through and in such other district or municipal district on such terms and subject to such conditions as he shall think fit, and the board of the first-mentioned district may act in accordance with the Minister's authority.
- Authority to board to construct drain through another district.  
No. 38 of 1919, s. 172A, inserted by No. 35 of 1932, s. 31.

Board to unite in making or repairing a road on common boundary.  
No. 38 of 1919, s. 173.

**175.** Where any road, following the common boundary between two road districts, or a road district and municipal district, lies as to part of its breadth in one such district, and as to part of its breadth in the other, or as to the whole of its breadth in either such district, the road boards or road board and municipal council, as the case may be, of such districts shall be bound, and may be compelled, as hereinafter provided, to unite in making, repairing, or lighting such roads so far as the same follows such boundary.

Local authorities to unite in construction and maintenance of certain drains.  
No. 38 of 1919, s. 173A, inserted by No. 35 of 1932, s. 32.

**176.** Whenever the Minister has declared by notice in the *Gazette* that it is necessary to drain any land, public or private, which lies partly in one district and partly in another district or municipal district, the local authorities of such districts shall be bound, and may be compelled, as hereinafter provided, to unite in the construction of the necessary drain and in maintaining and repairing such drain.

Local authorities to unite in maintenance of drains on common boundaries.  
No. 38 of 1919, s. 173B, inserted by No. 35 of 1932, s. 32.

**177.** Where any drain, or part of a drain, constructed or provided by a road board or a municipality following the common boundary between two districts, or between a district and a municipal district, lies as to part of its breadth in one district and as to part of its breadth in another, or as to the whole of its breadth in either of such districts, the local authorities of such districts shall be bound, and may be compelled, as hereinafter provided, to unite in repairing and maintaining such drain or part of a drain.

Local authorities to unite in building or maintaining bridge, etc., across river on common boundary.  
No. 38 of 1919, s. 174.

**178.** (1) Where any portion of one bank of any river, creek, or watercourse follows any part of the boundary of or runs through any district or two or more adjacent districts, and the opposite portion of the other bank follows any part of the boundary of or runs through another district or two or more adjacent districts, then the respective local authorities of such districts may be compelled, in manner hereinafter declared, to unite in doing and providing all or any of the works and services following:—

- (a) The repair and maintenance of any bridge or culvert constructed or to be constructed over such river, creek, or watercourse;

- (b) the maintenance of any ferry service established or to be established over such river, creek, or watercourse;
- (c) the construction, establishment, or provision of any such bridge, culvert, or ferry service;
- (d) the lighting of any such bridge.

(2) The liability of the local authorities hereunder extends only to works and services within the combined area of their districts or which exist or are required for providing passage directly from one part of such combined area to another:

Provided that the Minister may certify that any bridge or ferry is necessary to provide such passage, and that such passage cannot be conveniently so provided directly between places within the area, and may thereupon choose for that purpose some suitable situation outside or partly outside such area.

(3) Subject as aforesaid the places between which such bridge, culvert, or ferry shall be constructed or provided shall be determined by the Minister.

(4) No districts shall be deemed adjacent for the purposes of this section unless so determined by the Minister.

(5) "District" in this section includes a municipal district:

Provided that in order to bring this section into operation one at least of the districts concerned must be a road district.

179. The Minister may determine that any such work or service as is mentioned in either of the last four preceding sections shall be done or provided, and shall thereupon send to the local authorities concerned notice of his determination, with details of the work or service, and if within three months thereafter no agreement or magisterial order is entered into or made, as hereinafter provided, or if any such magisterial order is set aside or anywise invalidated, then the Minister may make any such order regarding the subject matter of his determination as a police or resident magistrate might make in

Minister may determine that such work or services be done or provided for.  
No. 38 of 1919, s. 175.  
No. 85 of 1932, s. 33.

respect thereof on the application of a local authority, and shall notify the local authorities concerned of such order:

Provided that nothing in this division shall be deemed to prohibit the exercise of any power or right conferred, or to take away any obligation imposed by Division IV of Part XII of the Municipal Corporations Act, 1906-1947.

Agreement  
between local  
authorities  
for providing  
and maintain-  
ing works.  
No. 38 of  
1919, s. 176.

**180.** Any of such local authorities may serve on the other or others a notice requiring any of such works or services as aforesaid as are specified in the Minister's determination to be done or provided for, and shall accompany such notice with a proposal for carrying out or providing the work or service, and an offer to treat and agree with respect thereto, including the future maintenance, repair, and continuation of the whole or part thereof, and an agreement may be made accordingly.

Magistrate  
may summon  
local author-  
ity failing to  
treat.  
No. 38 of  
1919, s. 177.

**181.** If for the space of one month after the receipt of any such notice the local authorities concerned fail to agree as to the subject matter thereof, it shall be lawful for any such local authorities at any time afterwards to apply to any police or resident magistrate for a summons calling on the other local authority or authorities to show cause why the work or service mentioned in such notice should not be executed or provided.

Magistrate  
may apportion  
work and  
order execu-  
tion.  
No. 38 of  
1919, s. 178.

**182.** On the return of the summons any resident or police magistrate may, upon proof of the giving of such notice, and upon the appearance of both or all parties, or proof, if any party so summoned does not appear, of the due service upon such party of such summons—

- (a) hear and determine the matter in question; and
- (b) apportion the work or service between the local authorities or direct any local authority or authorities to execute the whole work or provide the whole of the service, and the other local authority or authorities to pay any portion of the cost thereof or make any periodical payments in respect thereof; and
- (c) provide, in like manner, for the future maintenance, repair, and continuation thereof.

**183.** Every such local authority shall have power to do, provide, perform, maintain, repair, and continue any works or services in accordance with such agreement or with any magisterial order or with any order or permission of the Minister made or given under this Act, and to bear the cost of such performance, provision, maintenance, repair, and continuation.

Works may be executed accordingly. No. 38 of 1919, s. 179.

**184.** (1) If any local authority omits to do, provide, or continue any work or service which it ought to do, provide or continue pursuant to any such agreement or order as aforesaid, the Minister may cause such work or service to be done, provided, or continued and may authorise all such acts and things to be done as may be necessary for that purpose, and the local authority shall be liable to reimburse the Minister the amount of the expenses incurred.

On omission, Minister or either party may execute and recover expenses. No. 38 of 1919, s. 180.

(2) Any other local authority concerned may, with the permission of the Minister, do, provide or continue anything which the Minister may cause or authorise to be done, provided, or continued under this section, and may recover any expenses thereof from the local authority in default in any court of competent jurisdiction.

**185.** The Minister may determine that any local authority other than the local authorities aforesaid shall be liable to contribute to the cost of any such work or service as is in section one hundred and seventy-eight mentioned on the ground that the inhabitants of the districts thereof are benefited by such work or service, and may as often as necessary determine what shall be paid, either in a lump sum or by way of periodical payments, by such local authority to any one or more of the local authorities aforesaid, and any such amount shall be recoverable by any party entitled in any court of competent jurisdiction.

Contribution by other local authorities. No. 38 of 1919, s. 181.

**186.** (1) The Minister may—

- (a) from time to time vary any order, determination, or permission made or given by himself, or by any police or resident magistrate relating to any such work or service as is mentioned in the twelve preceding sections;\*

Supplementary powers of Minister. No. 38 of 1919, s. 182.

\*In this paragraph "twelve" is printed in lieu of "nine" as an amendment consequential on the insertion of three sections by the Act No. 35 of 1932, ss. 31 and 32.

(b) by warrant under his hand authorise the Treasurer, out of moneys placed for general purposes under section two hundred and seventeen of this Act, or as a municipal subsidy to the credit of any local authority, to satisfy wholly or in part any liability of a local authority under any of the said sections.

(2) Every order, determination, or permission shall have effect as so varied.

(3) Any such warrant shall be conclusive as to the truth of the matters therein stated, and shall have effect according to its tenor.

Power for  
Minister to  
repair main  
roads in de-  
fault of board.  
No. 38 of  
1919, s. 183.

187. The Governor may—

- (a) proclaim any road to be a main road;
- (b) authorise any defects or want of reparation which the Minister may certify to exist in any part of a main road, to be remedied and made good by the Minister, and order that the expense thereby incurred or any portion thereof shall be repaid to the Minister by the board to be named, and such expense shall be recoverable from the board accordingly; and
- (c) authorise such expenditure to be repaid to the Minister out of moneys placed, for general purposes, under section two hundred and seventeen to the credit of any board in whose district such part of a main road may be situated; and
- (d) direct the Treasurer to pay over to the Minister out of such moneys such expenditure or such amount as the Minister may certify to be necessary to remedy and make good such defects and want of reparation.†

Board may  
take materials  
for road-  
making.  
No. 38 of  
1919, s. 184.

188. (1) The board, or any person authorised in writing under the seal of the board, may—

- (a) enter upon any land within the district, not being land under cultivation or standing crop, or prepared and maintained for successive

† By section two of the Main Roads Act, 1930, it is enacted as follows:—  
From and after the commencement of this Act section one hundred and eighty-three of the Road Districts Act, 1919, shall not apply to any road that is within any portion of the State to which this Act applies.

crops, or fallowed land, or planted with artificial grasses for grazing purposes, and not being or comprised in a garden, yard, vineyard, orchard, plantation, park, recreation ground, or cemetery, and whether fenced or unfenced, and take from thence any native growing or dead timber, earth, stone, sand, or gravel that may, in the judgment of the board, be necessary for making or repairing any road or any bridge, culvert, fence, or gate within the district, and within one mile of the land so entered upon;

- (b) deposit and leave on land adjoining any road any timber, earth, stone, sand, gravel, or other material that it may be necessary, in the judgment of the board, for the persons engaged in making or repairing such road, bridge, culvert, fence, or gate to get rid of.

(2) The board shall not disturb or do any damage to any building, fence, or other structure upon any such lands, nor enter upon any such lands when fenced, except through the existing and usual openings in such fence; but if there is no such opening convenient for the use of the board, it shall be lawful for the board, on giving three days' notice in writing of their intention so to do to the owner or occupier of such lands, to open any such fence; and in such case the board shall erect a swing gate at such opening, which gate shall be kept closed by the board; and any person leaving open such gate shall be liable, on conviction thereof, to a penalty not exceeding ten pounds. The board shall, when such gate is no longer required by the board, immediately remove the same and make good such fence.

(3) The board shall make compensation to the owner of any land granted in fee simple or held under lease or on conditional terms of purchase from the Crown, except for pastoral or timber purposes, for any damage which such owner may sustain through the exercise by the board of the powers conferred by this section, including the value of the material taken, except so far as material is taken for use in the construction or repair of that section of the road which abuts upon the land of such owner or occupier.

Compensation.

(4) Any difference as to the amount of compensation shall be determined by arbitration as hereinafter provided.

Excavations  
to be fenced.

(5) If the board, in the exercise of the powers hereby conferred, cause to be made any pit or hole in any land, the board shall cause the same to be either filled up, sloped down, or securely fenced.

(6) The powers conferred by this section shall not be exercised upon any reserve without the consent, in writing, of the Minister for Lands.

Gates across  
roads.

No. 38 of  
1919, s. 185.  
No. 48 of  
1938, s. 9.

**189.** (1) Any person desiring to place or maintain a gate and a motor traffic pass, or a gate only, or a motor traffic pass only across a road shall apply to the board for permission to do so.

(2) The board may grant or withhold such permission and may, before dealing with the application, require the applicant to publish notice thereof in such manner as to the board may seem fit.

Inserted by  
No. 48 of  
1938, s. 9.

(3) Permission to erect a gate and a motor traffic pass, or a gate only, or a motor traffic pass only, as the case may be, shall be deemed to authorise the placing and maintenance of the gate and motor traffic pass, or the gate or the motor traffic pass, as the case may be, for one year and the permission granted in respect of the same shall be available for one year only.

Inserted by  
No. 48 of  
1938, s. 9, as  
(3a), now re-  
numbered  
(4).

(4) Where a person has applied for permission for a gate only, the board may, as a condition of the granting of the permission applied for, require that in addition to the gate, such person shall construct and maintain, during the period for which the permission is granted, a motor traffic pass of such design and description with such material and in such manner as the Commissioner of Main Roads may approve and require, and if such person fails in any respect to comply with any requisition by the board under this subsection the permission granted by the board as aforesaid may forthwith be withdrawn by the board.

Inserted by  
No. 48 of  
1938, s. 9,  
as (3b), now  
renumbered  
(5).

(5) Where a person has been granted permission for a gate only he may at any time, with the permission of the board, construct and maintain across the road during the

period for which such permission is granted, in addition to such gate, a motor traffic pass of such design and description with such material and in such manner as shall first be approved by the Commissioner of Main Roads.

(6) Where a person is granted permission to construct and maintain a gate and a motor traffic pass or a motor traffic pass only, the motor traffic pass shall be constructed and maintained in accordance with such design and description, with such material and in such manner as shall be approved and required by the Commissioner of Main Roads. If the motor traffic pass as constructed and maintained fails in any respect to comply with the requirements of the said Commissioner, the board may and shall if so required by the said Commissioner forthwith withdraw the permission granted by the board.

Inserted by  
No. 48 of  
1938, s. 9, as  
(3c), now  
renumbered  
(6).

(7) The board shall keep a register of gates and motor traffic passes constructed in combination, and of gates only, and of motor traffic passes only, permitted to be constructed and maintained and constructed and maintained under this section, and of gates permitted to be constructed and maintained under any repealed Act or enactment, and shall provide for the annual registration of such gates and motor traffic passes, and of such gates only, and of such motor traffic passes only respectively, and shall charge a fee not exceeding ten shillings and not less than two shillings and sixpence for each such registration to be paid by the person to whom the permission is granted.

Inserted by  
No. 48 of  
1938, s. 9, as  
(4), now  
renumbered  
(7).

(8) The board may at any time withdraw any permission granted under this section, or any permission granted under section one hundred and seventy of the Roads Act, 1911, and may require the gate and motor traffic pass, or the gate, or the motor traffic pass, as the case may be, permitted under this section, or the gate permitted under section one hundred and seventy of the Roads Act, 1911, or under any other repealed Act or enactment to be removed by the person by whom the same was constructed or by whom the same is being maintained, and if the requisition of the board is not complied with, the board may remove such gate and motor traffic pass, or such gate, or such motor traffic pass, as the case may be, and recover the expense of the removal from the person failing to comply with such requisition aforesaid.

Inserted by  
No. 48 of  
1938, s. 9, as  
(5), now  
renumbered  
(8).

Inserted by  
No. 48 of  
1938, s. 9, as  
(8), now  
renumbered  
(9).

(9) Any person leaving open any gate, or damaging any gate or any motor traffic pass during the period of the registration thereof under this section shall, without prejudice to any right of action for damages which the owner of such gate or motor traffic pass may have against such person, be guilty of an offence against this Act.

Penalty: Twenty pounds.

Inserted by  
No. 48 of  
1938, s. 9, as  
(6a), now  
renumbered  
(10).

(10) For the purposes of this section the term "motor traffic pass" means a contrivance constructed in a gap in a fence crossing or near a road, which is designed to permit the passage of motor vehicles but to prevent the passage of livestock over or through such a contrivance.

(11) The board may, with the approval of the Governor, and on giving six months' notice, in writing, of their intention so to do to the owner or occupier of the lands adjoining a road across which any gate has been placed, under the provisions of any repealed Act (other than the Roads Act, 1911), remove any such gate.

(12) The Governor may require any board to give such notice and remove any such gate or to exercise any power conferred by subsection (8) of this section, and the board shall forthwith proceed to act in accordance with such requisition.

In default of compliance the Minister may carry the requisition into effect, and for that purpose may exercise any power of the board.

(13) Any gate erected across a road shall be constructed and equipped as prescribed, and shall be of such size and may be provided with wing fences, and the erection or maintenance thereof may be made subject to such conditions as the board may from time to time direct.

(14) No person shall erect or maintain a gate across a road unless such gate shall have the words "Public Road" conspicuously and legibly painted and displayed thereon in black letters on a white ground, such lettering being not less than four inches in length.

(15) Where any land bounded by a road across which gates registered under this section are maintained is fenced on the boundary, the owner for the time being of any other land shall, if and during the time that (after the commencement of this Act) he, or any tenant of his,

makes use of or avails himself of the fence in connection with such other land, be liable to pay to the owner for the time being of the first-mentioned land interest on half the value for the time being of the fence at the rate of five pounds per centum per annum, and also half the cost of any repairs thereof effected during that time:

Provided that, in the absence of agreement to the contrary, any amount paid hereunder by an owner of land who is not in occupation thereof shall be recoverable from his tenant unless the fence was being used or availed of as aforesaid before the tenancy, or the tenant holds under a lease or agreement made after the commencement of this Act.

The provisions of this subsection apply whether the land was fenced or the gates erected before or after the commencement of this Act.

**190.** If upon any road or land adjoining a road there is an excavation which in the opinion of the board is dangerous, the board may—

(a) fill in or fence such excavation; or

(b) by notice in writing to the occupier or owner of the land, require such excavation to be filled in or securely fenced; and if such owner or occupier shall, for seven days after service of such notice, or such extended time as the board may allow, neglect to comply therewith to the satisfaction of the board, the board may fill in or fence the excavation and recover the cost as a debt due from such occupier or owner to the board.

Board may  
require exca-  
vation to be  
filled in or  
fenced.  
No. 38 of  
1919, s. 186.

**191.** If the board are of opinion that any road under their control is obstructed or made dangerous by any tree growing or being on land adjoining thereto, it shall be lawful for any two justices, on the application of the board, after summons served on the occupier or owner of the land, to make an order for the removal of such tree, or any part thereof, by such occupier or owner, and in default of compliance with such order within such time as the justice may appoint, such occupier or owner,

Trees  
obstructing  
or injuring  
roads.  
No. 38 of  
1919, s. 187.

as the case may be, shall be liable to a penalty not exceeding five pounds, and the board may remove such tree or such part thereof, and the cost of such removal may be recovered from such occupier or owner as a debt due to the board.

Management  
of sewers and  
drains.  
No. 38 of  
1919, s. 188.

**192.** (1) The board shall cause any drains and water courses under the control of the board to be kept so as not to be a nuisance or injurious to health, and to be properly cleared, cleansed, and emptied; and for the purpose of clearing, cleansing, and emptying the same may construct and erect such works as may be necessary, and may cause such drains to communicate with and be emptied into any place, not being a freshwater running stream, as they may deem fit or necessary.

(2) No person shall, without the consent of the board, cause any private drain or sewer to be emptied, or to flow into any drain under the control of the board or do any act, matter, or thing which shall, in the opinion of such board, tend to the injury or stoppage of any such drain.

Board may  
abate  
nuisance.  
No. 38 of  
1919, s. 189.

**193.** Whenever it appears that the person by whose act, default, permission, or sufferance a nuisance arises, or the owner of the land whereon the nuisance exists is not known or cannot be found, then the board may remove or abate the nuisance, and the costs may be defrayed out of the rates or moneys applicable to the execution of this Act, but shall be recoverable from such person or the owner of the land, when discovered, in any court of competent jurisdiction.

Board may  
require land  
abutting on  
made footway  
to be fenced.  
No. 38 of  
1919, s. 190.

**194.** (1) When any land, abutting upon any footway that has been made in whole or in part, is not fenced in to the satisfaction of the board, or the fence is in a state of disrepair, the board may, from time to time, order that such frontage of such land be fenced or refenced with a substantial fence of such description and material as the board may prescribe.

(2) The owner of the said land, after service on him or upon the occupier of the land of such order, shall, in such manner and in such time as shall be expressed therein, at his own cost fence, refence, or repair, to the satisfaction of the board, so much of the said land as shall abut upon any such footway.

(3) If any owner neglects to observe such order in the manner and time expressed therein the board may fence or refence such land, and such owner shall on demand pay the cost thereof to the board.

(4) In default of payment on demand the said land shall (without prejudice to the right of the board to recover by action the amount due) stand charged with payment of such cost as if the owner and all persons interested therein or having any encumbrance thereon had expressly agreed in writing, that it should be so charged.

195. Whenever the board constructs or repairs a crossing place over any footway or over any unmade portion of a road, for the traffic of vehicles across the footway or the unmade portion of a road to or from any private property, one-half of the cost thereof shall be paid to the board by the owner of the land thereby served; and the board may recover in any court of competent jurisdiction such one-half of the cost of the construction and repair of such crossing place both over the footway and the previously unmade portion of a road, as a debt

Provision as to payment of half cost of construction and repair of crossing place by the owner served.  
No. 38 of 1919, s. 190A, inserted by No. 35 of 1932, s. 34.

(3) Section one hundred and ninety-six of the principal Act is amended by—

S. 196 amended.

(a) adding after the word, "fire-plugs" in line four of paragraph (i) of subsection (1) the words, "or fixed pillar hydrants";

vention  
ires.  
38 of  
9, s. 191.

(b) adding the following subsection:—

(3) To the extent of any inconsistency between the provisions of the *Fire Brigades Act, 1942-1951*, and of this Act relating to fire-plugs and fixed fire hydrants, the former shall prevail.

(ii) either separately or in conjunction with any fire insurance company or other persons, procure fire engines, fire escapes, ladders, and other machines and apparatus made use of for extinguishing fires and saving life and property in cases of fire; and in like manner organise, establish, and maintain any fire brigade and make provision for, or contribute towards the

payment of any superintendent, officer, fireman, or other person employed therein, or grant any sum of money as reward for meritorious conduct, or compensation for personal injury to any person assisting in the extinguishment or preventing the spread of fire, or in the rescue or attempt to rescue, any person, animal, or goods therefrom within the district; and

- (iii) cause fire-alarm bells to be fixed in such situations as the board deems expedient; and
- (iv) subsidise any fire brigade established within its district or in any adjoining district.

(2) Before deciding whether he will give the required consent in any case to any board whose district is wholly or partly within a fire district the Minister shall refer the question to the President of the Western Australian Fire Brigades Board for report, and shall take the President's report into consideration.

Board may establish pounds, etc. No. 38 of 1919, s. 192.

**197.** (1) All powers and authorities and all things authorised or required to be exercised or done by justices of the peace under that part of the Cattle Trespass, Fencing and Impounding Act, 1882-1932, headed "Pounds and Poundkeepers" (save and except the receiving and determination of complaints and informations, and powers incidental thereto) shall, within the limits of any district be exercise and done by the board of such district.

(2) For the purposes of any law now or hereafter to be in force relating to the impounding of cattle, every board shall be deemed the owner and occupier of all roads within its district, and of all reserves vested in or under the control of the board, and of all land (whether alienated from the Crown or not) which is not enclosed by a sufficient fence (as defined in the Cattle Trespass, Fencing and Impounding Act, 1882-1932), and which abuts on any such road or reserve or is situated in any townsite in the district, and, subject as hereinafter provided, shall have and may exercise all the rights and powers of the owner under the said Act without having regard to section twenty thereof:

Provided that the board shall not be entitled to recover any money or damages for trespass on any such land as aforesaid (not being a road or reserve) except such sums as are set forth in the trespass scale in the second schedule of the aforesaid Act, and that nothing in this section shall prevent the real owner or occupier of any such land as aforesaid from recovering any damage over and above the sums provided in the trespass scale which he may have sustained by any trespass of cattle:

Provided further, that the board may by by-law reduce (for the purposes of this section) the amount prescribed in the said scale for any particular species or kind of trespass.

(3) Any cattle found on any such road or reserve for the purpose of grazing without the consent of the board or otherwise wandering or being thereon without lawful justification, shall be deemed to be trespassing on such road or reserve.

(4) The board may, with the assent of the local authority of an adjoining road or municipal district, by notice in the *Gazette*, declare that a pound established in such adjoining district, and the keeper of such pound for the time being, shall be the pound and the poundkeeper of the district of the first-mentioned board as well as of the local authority of such adjoining district; in which case the districts shall be deemed one district for the purposes of the said part of the said Act; and such declaration may, by similar notice, be cancelled by the board making the same.

(5) All pounds and poundkeepers established and appointed at the commencement of this Act, and all tables of fees and prices, and all regulations in relation thereto, shall pass to and be binding upon and enforceable by the board in whose district the same may be: Provided that such tables and regulations may be rescinded, altered, or amended, and any such poundkeeper may be dismissed by the board.

(6) Section sixteen of the Cattle Trespass, Fencing, and Impounding Act, 1882-1932, shall no longer be in force in any district.

(7) In paragraph seven of section thirty-four of the said Act the word "Board" shall, in connection with

sales of cattle from a pound of any board, be read in place of the words "resident or police magistrate" and "magistrate" respectively; and in subsection eight thereof the words "ordinary revenue of the board" shall be read in place of "public revenue of the Colony."

(8) In relation to the pound of any board all the words after "highway" in paragraph one of section thirty-two of the Cattle Trespass, Fencing, and Impounding Act, 1882-1932, shall be deemed to be repealed, and the words "chairman of the board" shall be substituted for "resident or police magistrate" in paragraph four of section thirty-five and in section thirty-seven of such Act.

(9) In this section the word "Cattle" has the same meaning as in the Cattle Trespass, Fencing, and Impounding Act, 1882-1932.

Destruction  
of noxious  
weeds.  
No. 38 of  
1919, s. 193.

**198.** The board may, and, if required by the Minister so to do, shall clear the roads, reserves, commons, and other land under its control of noxious weeds and may so far as necessary apply its ordinary revenue to such purpose.

Maintenance  
of agricultural  
halls, etc.  
No. 38 of  
1919, s. 194.  
No. 35 of  
1932, s. 35.  
No. 9 of 1946,  
s. 2.

**199.** A board may from time to time appropriate out of its ordinary revenue such sums as it may think proper for maintaining or improving agricultural halls, libraries, reading rooms, civic centre, infant health centre or kindergarten school or playground vested in or under the control of the board, or of trustees approved by the board, or for acquiring or building agricultural halls, libraries, reading rooms, civic centre, infant health centre, or kindergarten school or playground, or for acquiring sites for such buildings.

Board may  
demise hall  
upon certain  
terms.  
Inserted by  
No. 25 of  
1943, s. 3.

**199A.** Notwithstanding any provision to the contrary in this Act or in the Public Works Act, 1902-1945, a board may from time to time, with the consent in writing on each occasion of the Minister, demise any hall vested in it to any organisation for any period not exceeding twenty-one years at such rent and upon and subject to such terms and conditions as the board may deem expedient. Provided that this section shall apply only to a board

which has vested in it more than one hall. Provided also that the consent of the Minister shall not be given to any demise as aforesaid unless the lease shall contain a covenant by the lessee that not less than two members of the board nominated from time to time by the board shall be members of the committee or other executive body of the organisation.

200. The board may require mining or other companies to construct, fence, or otherwise protect and maintain, to the satisfaction of the board, and in accordance with the by-laws (if any) made under this Act, proper channels and culverts to carry away cyanide or other water discharged upon any road or public place from any land used for or in connection with mining or other operations, or the board may itself construct, fence, or otherwise protect and maintain such channels and culverts and recover the cost thereof from any mining or other company so discharging water.

Channels from  
mines.  
No. 38 of  
1919, s. 195.

*Division (3)—By-laws and Regulations.*

201. Subject to this Act, a board may, for the order and good government of its district, make by-laws for any of the following purposes—

By-laws.  
No. 38 of  
1919, s. 196;  
No. 33 of  
1938, s. 2;  
No. 56 of  
1939, s. 2;  
No. 28 of  
1941, s. 2.

- (1) for the conduct of the election of members of the board so far as the same is not sufficiently provided for by this Act;
- (2) to regulate the meetings, proceedings, and general conduct of the business of the board;
- (3) to regulate the appointment, duties, and conditions of service of officers and servants of the board;
- (4) for the custody of the deeds, records, books, and papers of the board;
- (5) for determining and regulating the time and mode of collecting and enforcing payment of rates, either in arrear or current, and of license and other fees, which the board is authorised to exact; and allowing discount not exceeding five per centum for prompt payment

Elections.

Meetings.

Officers.

Documents.

Payment of  
rates.  
No. 35 of  
1932, s. 36.

of rates; but so that such discount shall be allowed in respect of general rates only (not including supplemental rates), and shall not be allowed in respect of rates not paid on or before the thirtieth day of September of the year in which the rates have been imposed: Provided that the Minister under special circumstances may agree to an extension of time for a period of time not exceeding one month;

Public notices.

(6) for regulating the publication of notices for or on behalf of the board;

Purposes of s. 160.

(7) for carrying into effect any of the purposes mentioned in section one hundred and sixty; and for regulating the conduct and management of any business or trading concern lawfully carried on by the board, and the disposal of the receipts thereof in the interest of the district;

Use and management of roads, reserves, and works, etc.

(8) for—

(a) regulating and providing for the use, management, and maintenance, and

(b) preventing any misuse or obstruction of or damage or injury to—

roads and public places or reserves, buildings, structures, works, appliances, apparatus, and things vested in or under the control of the board;

Motor tracks.

(9) for the provision of motor tracks reserved for motor traffic, and prohibiting the use of such track otherwise than for motor traffic;

Lighting roads.

(10) for the lighting of roads and other public places;

Supply of water, gas, and electricity

(11) for regulating the supply and distribution of water, gas, or electricity under the authority of the board, and imposing, collecting, and enforcing payment or charges therefor by consumers;

Stands for vehicles.

(12) for appointing stands for passenger and other vehicles used to ply for hire and regulating the use thereof, and prohibiting any person making use of any such stand contrary to the by-law;

- (13) for regulating the use and management of handcarts in or on any road, and the conduct of persons in charge thereof; Hand carts.
- (14) for prescribing and regulating the width of and the mode in which and the materials whereof crossing places for vehicles and animals from any road or street to private properties over any made footpath shall be constructed; Crossing places.
- (15) for providing for the issue by the board, on the registration of any animal, of a registration disc inscribed with the name of the district and the registration number, and requiring every person in charge of the animal to keep the disc attached to its neck; Registration discs.
- (16) for preventing entire horses being led or exhibited through or in the streets or public places of any townsite at inexpedient hours; Entire horses.
- (17) for preventing mares being covered in any townsite except in yards, buildings, or premises sufficiently enclosed or screened from public view; Covering of mares.
- (18) for prescribing the manner in which any fence or wall abutting on any road is to be erected and maintained in any particular portions of the district by order of the board, and the description, style, and material of any such fence or wall; Walls, etc., abutting on roads.
- (19) for prohibiting the erection of dangerous fences, or fences with barbed wire abutting on roads or public places, and regulating and prescribing the materials of which fences abutting on roads or public places shall be constructed; Dangerous fences.
- (20) for compelling the use of hoardings, fences, lights and other appliances where works are in progress in or upon any land or premises abutting on a street or land under the control of the board; Hoardings around works in progress. No. 35 of 1932, s. 36.
- (21) for the regulation and control of bills, placards or advertisements attached to or pasted or Advertisements on hoardings.

painted on hoardings, whether the same are erected upon private property or upon any public place;

Advertising  
hoardings.  
No. 35 of  
1932, s. 36.

(22) for the regulation and control of hoardings erected upon private property, and for the removal by the board, or any person acting under its authority, of any such hoarding, or of any bill, placard, or advertisement attached to or pasted or painted thereon which in the opinion of the Board is dangerous or objectionable, and for the recovery of the expenses thereof;

Licenses for  
hoardings.  
Ibid.

(23) for requiring licenses to be obtained from the board for the erection, management and control of any hoarding, and for attaching to or pasting or painting thereon any bills, placards, or advertisements;

Fires.

(24) for the prevention, suppression, and speedy extinguishment of fires in the district if it is not within a fire district or in any part of the district which is not within a fire district;

Inflammable  
substances.

(25) for preventing the placing, stacking, or storing in any townsite which is not within a fire district, of any cases, paper, shavings, crates packed with straw, or any dangerous or inflammable substances, in the open air;

Blasting.

(26) for regulating and controlling quarrying and blasting operations;

Inflammable  
structures.

(27) for regulating or prohibiting the erection of hessian or calico structures, or structures of any other inflammable material;

Balconies,  
etc., overhang-  
ing roads.

(28) for regulating the erection and maintenance of hoardings, buildings, balconies, or verandahs abutting on or extending over any road or public place;

Nuisances.

(29) for the prevention and abatement of nuisances;

Public  
decency.

(30) for the preservation of public decency and public health;

- (31) for regulating or prohibiting bathing in the sea or in any river, pool, creek, or other open public water within the limits of or on the boundary of the district; Bathing.
- (32) for setting apart any place or any portion of any such water for the sole use of and prescribing the times when the same may be used by either sex; Bathing places.
- (33) for fixing the hours within which persons may bathe, and requiring persons bathing to wear suitable clothing; Bathing hours.
- (34) for authorising the erection and using of bathing houses, sheds, or machines, and providing for such other matters as appear expedient for preserving decency or promoting the convenience of the public in connection with bathing; Bathing houses, etc.
- (35) for regulating the use of sea or river jetties, bathing enclosures, and bathing-houses under the control of the board, and prescribing charges for admission to or for the use of the same; Sea jetties, etc.
- (36) for regulating the use of the foreshore of any river or the sea, and for granting licenses to erect stalls, merry-go-rounds, and other structures thereon, and prescribing fees for same; Foreshores.
- (37) for the granting, with the approval of the Minister for Forests or the Minister for Lands, as the case may be, of licenses for cutting firewood on and the removal of gravel, stone, or sand from reserves vested in the board, in addition to any licenses required under the Land Act, 1933-1948, or Forests Act, 1918-1931; Licenses for cutting timber.
- (38) for prescribing and regulating the manner of keeping and depasturing goats and the driving of goats over roads, and empowering the board to seize, impound, or destroy goats found at large in public places; Goats.
- (39) for prescribing the annual registration of all goats kept within any townsite and the fees for same not exceeding sixpence for each goat; Registration of goats.

Bees.

(40) for prohibiting or regulating the keeping of bees;

Hawking.  
No. 35 of  
1932, s. 36.  
No. 56 of  
1939, s. 2.

(41) (i) for regulating the hawking of any goods, wares or merchandise, and requiring licenses to be obtained by hawkers, and enforcing the obligation of hawkers and traders to carry scales.

Inserted by  
No. 56 of  
1939, s. 2.

Subject as hereinafter provided, for the purposes of this paragraph the term "hawker" means any person who travels and trades and goes from place to place or to other men's houses or places of business, soliciting orders from or carrying to sell or exposing for sale any goods, wares or merchandise to any person who does not in the ordinary course of business buy and sell or use the same: Provided that, if the goods, wares, or merchandise consist only of one or more of the following, namely: fruit, fish, meat, poultry, game, vegetables, butter, eggs, milk, or any victuals or books or newspapers, the term means any person who (or if he is a servant, whose employer) does not carry on the business of selling or producing the same in a shop or permanent place of business, and who travels and trades and goes from place to place or to other men's houses there soliciting orders for or carrying to sell or exposing for sale any such merchandise or articles.

In the foregoing definition of the word "hawker" the term "shop or permanent place of business" means an established permanent place of business of substantial construction wherein goods, wares, or merchandise of the kind being hawked are made, produced, or sold, and, when the article hawked is a primary product, includes the farm or place where the same was produced;

(ii) for prescribing the annual fees to be paid for hawker's licenses and for differentiating in such fees according to the commodities hawked, not exceeding—

- (a) in towns and prescribed areas—£10;
- (b) in country—£6.

(iii) for limiting the number of licenses to be issued and for refusing to grant any license, either when such limit is reached, or for any other reason;

(iv) for requiring a badge, with a number and the year of issue displayed thereon, to be issued to persons licensed to hawk, at a prescribed fee not exceeding five shillings;

(v) for requiring hawkers to display the prescribed badge when hawking, or offering or exposing goods for sale or hire;

(vi) for prohibiting hawking in any prescribed road or other part of the district;

(42) regulating movable or temporarily fixed stalls in or near any street or way for the sale of any meat, fish, poultry, game, fruit, vegetables, drink, eatables, or articles of merchandise, and the management thereof, and the conduct of the persons in charge thereof, and the time when and position of places in which stallholders shall be allowed to carry on business;

Stalls.  
No. 35 of  
1932, s. 36.

(43) regulating the erection and use of petrol pumps for the supply of petrol to the public in or near any street or way, and for granting licenses authorising the erection and use of such petrol pumps, and prescribing fees for such licenses;

Petrol pumps.  
Ibid.

(44) to prevent and prohibit animals from straying, or if suffering from any infectious or contagious disease, from being driven or ridden on any road, and for the slaughter and destruction of any animal found so suffering on any road;

Straying  
animals.

(45) for prescribing the fees and charges to be paid for grazing stock on any common which is vested in the board and in respect of which no power of prescribing fees is vested in the board under the Land Act, 1933-1948, and providing for the collection and enforcing payment of such fees and charges;

Fees for graz-  
ing stock.

- Fencing. (46) for requiring the owners of land within the district or any prescribed areas thereof to fence the boundary thereof abutting on any road;
- Water-courses, etc. (47) for preventing the pollution or obstruction of or injury or damage to water-courses, water-channels, pools, wells, dams, tanks, reservoirs, and other waters within the district of the board;
- Poisonous water from mines, etc. (48) for regulating the flow of poisonous or offensive waters from mines, factories, and other works and undertakings; for requiring suitable and properly protected channels and culverts to be constructed to carry away such waters; for providing for the disposal of such waters, and for the protection of human and animal life from dangers likely to arise therefrom;
- Public reserves, etc. Amended No. 64 of 1946, s. 6. (49) for regulating the management and use and for prescribing the fees and charges to be paid for the use of any public reserve, common, or public buildings, public works, and other things under the control of the board, and the rights and privileges to be enjoyed by the inhabitants of the district or other persons over such reserve, common or building respectively;
- Hot ashes. (50) for regulating the dumping of hot ashes in any place, and for the prevention of damage by burning;
- Charge on tents, etc., in lieu of rates. (51) for requiring and compelling any person—
- (a) being in actual occupation (with or without title) of the surface of any portion of a mining tenement, within the meaning of the Mining Act, 1904-1948; or
  - (b) having, without title, any tent, camp, or other habitation on any land belonging to another person; or
  - (c) being in the unauthorised occupation of any Crown land,

to pay in advance a prescribed fee to be levied annually or otherwise as the board may direct,

but so that no rates shall be imposed on the property for which the fee is payable for the period intended to be covered by such fee;

- (52) for preventing land which cannot be sufficiently and conveniently drained being subdivided or built upon; .

Lands which cannot be drained.  
No. 35 of 1932, s. 36.
- (53) enabling the board to declare specified areas in any portion of a townsite of their road district, in which only buildings of specified value and approved design may be erected;

Buildings.  
Ibid.  
No. 6 of 1933, s. 13.
- (54) enabling the board to prescribe for any road or portion of a road in a townsite a building line, and to prohibit the erection or re-erection of any building or structure in front of such line, and to require any existing building or structure to be set back to the building line, subject to the payment of compensation to be fixed by arbitration and subject also to the proposed expenditure by the board being submitted to the vote of the ratepayers and being approved by a majority of the votes given by ballot;

Building line.  
Ibid.
- (55) authorising and regulating the construction by any persons of pipe-lines beneath roads and footpaths from or to private property;

Pipe line.  
Ibid.
- (56) for permitting, requiring and compelling the owners and occupiers of occupied or vacant land in townsites to clear such land of trees, scrub and undergrowth;

Clearing townsite lots.  
Repealed and inserted by  
No. 64 of 1946, s. 6.
- (57) for requiring the owner or occupier of land to keep the roads abutting on such land clear of poisonous plants after such roads have been cleared of poisonous plants by the board; .

Noxious plants.
- (58) for effectually regulating and carrying out the powers and authorities conferred by this Act;

General power.
- (59) for carrying into effect all or any of the purposes mentioned in the Second Schedule to the Town Planning and Development Act, 1928-1947;

Town Planning Act.  
No. 39 of 1928, s. 29 (3).
- (60) (i) for all or any of the purposes for which regulations may be made under paragraphs (b) and (c) of section six of the Fisheries Act, 1905-1949, or for which proclamations may be

Regulating the taking of fish.  
Inserted by  
No. 33 of 1938, s. 2.

made under sections eight and nine of such Act, but so that the application and effect of by-laws made by a board under the authority of this paragraph shall be restricted to West Australian waters vested in or under the control of the board;

(ii) for providing that under license from the board, fish may be taken from waters to which by-laws under this paragraph apply;

(iii) for all matters which are necessary or convenient to be prescribed for the purpose of carrying out or giving effect to by-laws as fully as if they were regulations or proclamations under the Fisheries Act, 1905-1949, and in particular for providing—

(a) for the detection, punishment and apprehension of offenders and the prevention of offences;

(b) for the forfeiture to His Majesty of property or articles used or intended to be used and fish taken in breach of any by-law; and

(c) for adopting the benefit of section thirty-four of the Fisheries Act, 1905-1949, and applying the provisions of such section *mutatis mutandis* to prosecutions for breaches of by-laws.

Parking of  
caravans, etc.  
Inserted by  
No. 28 of  
1941, s. 2.

(61) for prohibiting or regulating the parking or allowing to remain stationary on any land of any caravan or vehicle designed or fitted as a habitation for any person or capable of being used for dwelling or sleeping purposes without the written license of the board; and authorising the granting by the board of licenses for such period or periods and upon such terms as the board may from time to time determine;

Regulating  
hostels for  
school  
children.  
Inserted,  
No. 46 of  
1946, s. 3.

(62) for regulating the establishment, maintenance and control of hostels for school children;

- (63) for permitting and regulating the planting of lawns and gardens in roads by the owners and occupiers of premises abutting thereon, and for the laying of pipes under and the installation of taps in, roads for watering such lawns and gardens with water drawn from a water supply the property of the owner of such pipes and taps, or with water lawfully obtained by such owner from the Minister or statutory body controlling the supply of water in the district in which such water is required as aforesaid; and for prohibiting the riding or driving of animals or vehicles over such lawns and gardens;
- Lawns and gardens in roads.  
Inserted by No. 64 of 1946, s. 6.  
Amended, No. 25 of 1947, s. 12.
- (64) for establishing on a voluntary basis superannuation, sick, death, insurance, guarantee or endowment funds for employees of the board and for the deduction of prescribed contributions thereto from the pay of such employees who become contributors.
- Superannuation for employees.  
Inserted by No. 64 of 1946, s. 6.  
Amended, No. 25 of 1947, s. 12.
202. Subject to this Act, a board may make by-laws to regulate or prohibit the quarrying for stone, gravel, or other material, and other similar excavations on other than Crown land within townsites and prescribed areas, without the license of the board: Provided that any person aggrieved by the refusal of a board to grant such license shall have the right of appeal to the Minister, who may confirm the action of a board in refusing a license, or may direct the board to issue a license subject to such conditions (if any) as the Minister may think fit; and it shall be the duty of the board to observe the direction of the Minister.
- License to quarry stone, etc., within townsites and prescribed areas.  
No. 38 of 1919, s. 196A, inserted by No. 35 of 1932, s. 37.
203. The Governor may make and publish in the *Gazette* uniform general by-laws for all or any of the purposes for which by-laws may be made under this Act, and such by-laws shall have the force of law in any districts which the Governor may from time to time prescribe, and shall supersede the by-laws made for the same or similar purpose by the boards of the districts so prescribed, and the Governor may at any time repeal any by-law made by a board.
- Governor may make general by-laws.  
No. 38 of 1919, s. 197.
- Governor may repeal by-laws.

Matters that may be inserted in any by-law.  
No. 38 of 1919, s. 198.

**204.** (1) Any by-law made under this Act may—

- (a) impose a penalty not exceeding twenty pounds for the breach thereof;
- (b) fix the fees payable for and the duration of a license;
- (c) prescribe the conditions on which any license shall be granted, and provide that on the breach of such condition the license may be cancelled by the board.

Breach of licensing by-law.

(2) Any unlicensed person doing any act or thing for which a license is required, and any licensed person committing any breach of the conditions under which his license is granted shall be guilty of an offence against this Act.

Governor's confirmation requisite.  
No. 38 of 1919, s. 199.

**205.** No by-law or repeal by a by-law shall be of any force or effect unless and until it has been confirmed or approved by the Governor and published in the *Gazette*.

By-laws not to relieve offenders from other proceedings.  
No. 38 of 1919, s. 200.

**206.** Nothing in any by-law shall relieve any person from any penalty, punishment, or action to which he would otherwise be liable in respect of anything done by him in breach of any by-law made under this Act; and the board may sue any person for any damage done to any road, public place, vessel, building, structure, work, appliance, apparatus, or thing in addition to recovering the amount of any penalty for the breach of any by-law.

Copy of by-laws to be posted on jetties and bridges.  
No. 38 of 1919, s. 201.

**207.** (1) A copy of all by-laws having special reference to bridges and jetties shall be conspicuously displayed at the office of the board, and at each and every bridge and jetty to which such by-laws have reference.

Copies of by-laws to be on sale.

(2) Copies of all by-laws in force in any district shall be on sale at a price not exceeding one shilling per copy to every person applying for the same at the office of the board.

Building regulations.  
Second Schedule.  
No. 38 of 1919, s. 202.

**208.** (1) The Governor may in his discretion extend the provisions set out in the Second Schedule hereto to any district or portion thereof, and on publication in the *Gazette* of an Order in Council made under this section, such provisions shall come into force in the district or portion thereof to which such order relates.

(2) The Governor may alter or revoke any Order in Council made under this section, or suspend its operation in any district or portion thereof for any period.

(3) The Governor may at any time, and from time to time by proclamation, declare that in any district or any portion of a district it shall be lawful to use wood or other structural material in the construction of the external and internal walls of any building intended for use as a dwelling-house, and, notwithstanding that the provisions of the said second schedule have been extended to and are in operation in such district, or portion of a district, and until such proclamation is revoked, any of the provisions of the said second schedule (save and except regulations twenty-nine to thirty-three, both inclusive) and of any by-laws made thereunder which are deemed to be inconsistent with or repugnant to the authority granted by such proclamation, shall be suspended and have no force or effect in relation to any such building aforesaid.

No. 35 of  
1932, s. 38.  
No. 64 of  
1946, s. 7.

208A. (1) The Governor may cause to be prepared model building by-laws for all or any of the purposes for which by-laws may be made by a board under regulation 37 of the building regulations contained in the Second Schedule to this Act. Such model building by-laws shall be published in the *Government Gazette*.

General  
building  
by-laws.  
Inserted by  
No. 64 of  
1946, s. 8.

(2) A board may, of its own motion, by resolution adopt the whole or any portion of such by-laws, with or without modification.

Inserted by  
No. 64 of  
1946, s. 8.

(3) Such resolution shall be published in the *Gazette*, and thereupon shall operate to extend such model building by-laws so adopted to the district, and with the same legal effect for all purposes as if the by-laws or portion so adopted had been passed by the board, and duly brought into effect in accordance with the provisions of this Act relating to the making of by-laws by a board.

Inserted by  
No. 64 of  
1946, s. 8.

(4) Whenever a board adopts the whole or any portion of such model building by-laws, the by-laws so adopted shall in all courts be deemed to be within the powers conferred on the board to make by-laws under this Act and the Second Schedule to this Act.

Inserted by  
No. 64 of  
1946, s. 8.

Board may order certain buildings be equipped with electricity.  
 Inserted by No. 44 of 1947, s. 3.

208B. (1) Whenever any building now or hereafter erected for the purpose of human habitation shall be distant not more than one hundred yards from any electricity main supplying electric current capable of being used for lighting purposes, and electricity supply from such main is available from the supply authority, the board may, if requested by any occupier of such building or any part thereof, cause notice to be served on the owner of such building requiring him within three months to instal therein and equip the same with proper electrical wire and apparatus so that lighting by electricity would, upon such wire and apparatus being connected to an electricity main, become available in all rooms or other parts of such building which in the opinion of the board are being or are likely to be used in respect of such habitation as aforesaid.

(2) Any person committing an offence against the provisions of this section shall, upon conviction, be liable to a penalty not exceeding ten pounds for such offence, and to a further penalty not exceeding two pounds for every day such offence continues.

#### *Division (4)—General.*

Procedure for taking land.  
 No. 38 of 1919, s. 203.

209. Wherever any land is required for the purposes of this Act, such land may be entered upon, surveyed, and taken under the powers contained in and in accordance with the procedure prescribed by the Public Works Act, 1902.

Failure of board to make offer to claimant.  
 No. 38 of 1919, s. 204.

210. If a road board fails to serve an offer on any claimant against the board for compensation under the Public Works Act, 1902-1945, within the time limited for that purpose by that Act, then the Minister may at any time thereafter serve an offer on behalf of the board, and such offer shall be deemed to be an offer duly made by the board for the purposes of the said Act.

Methods of entering into contracts.  
 No. 38 of 1919, s. 205.

211. The board may enter into contracts for the purposes of this Act, and every such contract may be made, varied, or discharged as follows, that is to say—

- (1) any contract which, if made between private persons, would by law be required to be in

writing and under seal may be made in writing and under the common seal of the board, and may be varied or discharged in the same manner;

- (2) any contract which, if made between private persons, would by law be required to be in writing may be made in writing, signed by the chairman, acting by the direction and on behalf of the board, and may be varied or discharged in the same manner;
- (3) any contract which, if made between private persons, would be by law valid, although not reduced into writing, may be made without writing by the chairman acting by the direction and on behalf of the board, and may be varied and discharged in the same manner.

And all contracts made according to the provisions herein contained shall be effectual in law, and shall be binding upon the board and their successors, and all other parties thereto, their heirs, executors, or administrators, as the case may be.

**212.** (1) A board may from time to time, with the approval of the Minister; pay the reasonable expenses incurred by not more than two delegates in attending any road board conference.

Conferences.  
No. 38 of  
1919, s. 206.  
No. 64 of  
1946, s. 9.

(2) A board may pay to any member of the board who necessarily incurs expense or loss in or in consequence of travelling to attend meetings of the board, the amount of the expense so incurred: Provided that such payment shall not exceed one pound in respect of any one meeting.

Travelling  
expenses.  
No. 35 of  
1932, s. 39.  
No. 64 of  
1946, s. 9.

**213.** The board may compound, compromise, or submit to arbitration any claim, debt, sum of money, action, or demand made, owing, or brought either by or against the board.

Board may  
make compo-  
sitions.  
No. 38 of  
1919, s. 207.

**214.** When any damage or loss has at any time been sustained by any person by reason or in the course of the construction or doing by or by the order or request of the board of any work which the members of the board

Limitation of  
liability when  
work done in  
reliance on  
supposed legal  
authority.  
No. 38 of  
1919, s. 208.

or a majority of them at such time honestly but mistakenly believed the board was lawfully authorised to do or cause to be done then the person sustaining such damage or loss shall not be entitled to recover from the board or any person in any action or proceeding any greater damages or compensation than he would have been entitled to if the authority of the board had been such as it was so believed to be:

Provided that nothing herein shall exempt the board or any contractor or other person from liability in respect of loss or damage occasioned by negligence on the part of any contractor, servant of the board, or other person engaged in or about such work.

Liability of  
members of  
board.  
No. 38 of  
1919, s. 209.

**215.** In the execution and performance by any board of the powers and duties conferred upon it by this Act, a member of the board shall not be personally liable in respect of the execution or non-execution of the said powers or the performance or non-performance of the said duties, unless it shall be proved that such member has been guilty of wilful or intentional misconduct or of negligence.

#### PART VI.—REVENUE.

##### *Division (1)—Ordinary Revenue: Grants.*

Ordinary  
revenue.  
No. 38 of  
1919, s. 210.

**216.** (1) The ordinary revenue of every board shall be made up of—

- (a) the rents, issues, profits, and dues, arising from or out of any real or personal property of the board;
- (b) fees, profits, or rents arising from or out of any lands, reserves, or commons vested in or under the control of the board;
- (c) dues and fees authorised by the Governor to be exacted in respect of any building, erection, or work placed by the Governor under the control and management of the board;
- (d) fees for licenses granted and registrations made by or on behalf of the board under the provisions of this Act;

- (e) fees for licenses and registrations which, under the provisions of any other Act or otherwise, are payable to the board;
- (f) fines and penalties incurred and recovered under the provisions of this Act or the by-laws made under this Act and in force in the district;
- (g) fines and penalties which by any other Act are made payable to the Board;
- (h) all moneys payable in respect of any general rate struck under the provisions of this Act;
- (i) all other moneys which the board may receive under this Act, not being the proceeds of any loan or of any loan rate, or receipts from any business or trading concern lawfully carried on by the board;
- (j) all moneys which the board may receive under any other Act if such moneys are applicable to the general purposes of this Act.

(2) Such revenue when received shall be applied by the board towards the payment of all expenses incurred in carrying this Act into execution, and of doing and performing all acts and things which the board is empowered or required to do or perform; but a board shall not commit itself to any expenditure in anticipation of the receipt of revenue, in excess of an amount equal to one-third of the ordinary revenue of the board for the year then last preceding.

217. (1) The Governor may from time to time place to the credit of the board, for the purpose of any specific object or for general purposes, any sum of money out of moneys appropriated by Parliament for the purposes of this Act.

Government grants.  
No. 38 of  
1919, s. 211.

(2) Such sum shall not be deemed to be ordinary income of the board, and a separate detailed account of the expenditure thereof shall from time to time, and whenever required, be furnished to the Minister.

(3) Any money granted to a board under this section shall be paid to the credit of the board at the Treasury,

and when granted for a specific object shall not, without the consent of the Minister, be expended except for that specific object.

(4) Any memorandum acknowledging the receipt of money so granted and placed to the credit of a board shall be exempt from stamp duty.

*Division (2)—Rateable Property.*

What shall  
be rateable  
property.  
No. 38 of  
1919, s. 212.

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

- (1) land the property of the Crown and used for public purposes, or unoccupied;
- (2) land belonging to any religious body, and used or held exclusively as or for a place of public worship, a Sunday school, a place or residence of a minister of religion, a convent, nunnery, or monastery, or occupied exclusively by a religious brotherhood or sisterhood;
- (3) 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;
- (4) land used and occupied exclusively for charitable purposes;
- (5) land vested in any board under the Parks and Reserves Act, 1895-1947, or in trustees for agricultural or horticultural show purposes, or zoological or acclimatisation gardens or purposes or for public resort and recreation;
- (6) land held or used as a cemetery;
- (7) land held on conditional purchase lease granted before or after the commencement of this Act, under the Land Act, 1933-1948, or any amendment thereof, for two years from the commencement of the lease:

Provided that this paragraph shall not apply to a conditional purchase lease granted after the surrender or forfeiture of a pre-

No. 35 of  
1932, s. 40.

existing lease of the same land to which the exemption has applied, unless the Under Secretary for Lands certifies that the land is not sufficiently improved, and that the exemption should apply;

- (8) land declared by the Governor or by any unrepealed Act passed before or after the commencement of this Act to be exempt from rates:

Provided that—

- (a) any land exempted by subsections two, three, or four of this section 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 subsections three and four of this section shall be deemed to be rateable property if such property is held under lease or rented from any owner except the Crown:

But where any land which, but for this proviso or the corresponding proviso in the Roads Act, 1911, would not be rateable property was, at the commencement of the Roads Act, 1911, held under any lease then unexpired, and is at the commencement of this Act held under such lease, such land shall not become rateable land until the period for which such lease has been made has expired, or until the lessee has a right to determine the same, whichever first happens:

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.

*Division (3)—Valuations.*

**219.** Subject to this Act, every board shall, on or before the thirty-first day of July in every year, make a valuation of all rateable land within the district, on the unimproved value, or, with the consent of the Governor,

Annual valuations of rateable property. No. 38 of 1912, s. 213; No. 48 of 1938, s. 10.

on the annual value, in accordance with the rules hereinafter set forth; and every such valuation shall remain in force until a new valuation has been made:

Provided that (notwithstanding that the system of valuation on the annual value is not adopted throughout the district)—

- (a) the board may adopt in any townsite or in any area defined for that purpose by proclamation the system of valuation on the annual value; and
- (b) the board may adopt in respect of all or any land which is within the limits of a proclaimed goldfield, or which is held under mining lease from the Crown, the system of valuation on the annual value; and
- (c) for the purpose of rating tramways or railways or buildings, plant, or fixtures used in connection therewith or "works" as defined in the Electricity Act, 1945, or buildings, gasometers, pipes, or other plant or fixtures used in connection with the manufacture or supply of gas, or buildings, pipes, plant, or fixtures used in connection with the storage or supply of water, the system of valuation on the annual value shall be adopted:

Provided, also, that the board may in its discretion, instead of causing fresh valuations to be prepared in any year, use the valuations of the last or any previous year, with such alterations and additions as appear necessary, and that no valuation need be made which is not requisite for the purpose of assessing rates.

Provided further that it shall not be necessary to have a new valuation made of all rateable property in any district at one time, but such valuation may be made of so much of the rateable property as may seem fit to the board, and any valuation so made shall be deemed to be part of the existing valuation, and to be in substitution for so much thereof as shall have been revalued.

Power to re-value part only of a district.  
cf. Vic. 3720, s. 255.  
Inserted by No. 64 of 1946, s. 10.

**220.** Except as hereinafter provided the unimproved value of land shall be the capital sum which the fee simple of such land might be expected to realise if offered for sale on such reasonable terms and conditions as a *bona fide* seller would require, assuming that the improvements (if any) thereon had not been made:

Unimproved value.  
No. 88 of 1919, s. 214; No. 35 of 1932, s. 41.

Provided that town lots held under Crown lease shall be assessed on the unimproved capital value of such land as if in fee simple and all rates heretofore levied under the Roads Act, 1911, under assessment so made are hereby ratified:

Provided, also, that the following special methods of ascertaining the unimproved value shall be observed in the following cases, that is to say—

Proviso. Rules to be observed in certain cases in ascertaining the value of land

- (i) in respect of land held under a Crown lease or of which any profit may lawfully be taken by virtue of a Crown lease, the unimproved value shall, subject as herein provided, be deemed to be a sum equal to twenty times the annual rent reserved by the lease; but when such annual rent is reduced under the provisions of the Land Act, 1933-1948, on the ground of possession by the lessee of stock, the valuation shall nevertheless be made on the annual rent originally reserved by the lease:

Provided that if any such lease is sublet at a higher rent, the value shall be calculated upon the rent reserved by the sub-lease;

- (ii) the unimproved value of land held or used under lease (not being a pastoral or mining lease), license, or concession from the Crown for cutting and removing timber or with the right of taking any other profit from the land, shall be a sum equal to five shillings for every acre of the land.

**221.** Subject to this Act, the valuation of land to ascertain the annual value thereof shall be made according to the following rules:—

Certain rules to be observed in ascertaining the annual value of land.  
No 88 of 1919, s. 215.

- (i) The annual value of land which is improved shall, subject as hereinafter provided, be deemed to be a sum equal to the estimated

full, fair average amount of rent at which such land may reasonably be expected to let from year to year, less the amount of the year's rates and taxes and a deduction of twenty pounds per centum for repairs, insurance, and other outgoings;

- (ii) the annual value of land which is improved shall in no case be deemed to be less than four pounds per centum upon the improved value of the land or than five per centum upon the unimproved value of the land;
- (iii) the annual value of land held under any tenure peculiar to goldfields or mineral fields shall be the fair average annual value of land of the same quality held in fee simple in the same neighbourhood with the buildings erected thereon;
- (iv) the annual value of land which is unimproved shall be taken to be five pounds per centum on the unimproved value thereof.

Improved values.  
No. 3 of  
1919 s. 216.

**222.** Subject, as hereinafter provided, the improved value of land shall, in relation to land as to which a special method of ascertaining the unimproved value is prescribed by this Act be deemed to be the capital sum which results on the addition of the value of the improvements to the unimproved value of the land, and in relation to other land the capital sum which the fee simple of the land (including any improvements) might be expected to realise if offered for sale on such reasonable terms and conditions as a *bona fide* seller would require.

General rules to be observed in making valuations.  
No. 38 of  
1919, s. 217.

**223.** (1) The following rules shall be observed in making valuations:—

- (i) Every valuation shall be made on the assumption, if necessary to be made, that the land is free from all mortgages, charges, or encumbrances whatever, except the payment under or pursuant to any State law of rates and taxes for the current year, and that no restriction exists on the power to sell, let, or otherwise dispose of the land: But when land is held by trustees under a grant from the

Crown, or under a Statute, subject to restrictions upon the mode of its use, the valuation shall be subject to a reduction proportionate to the extent by which the availability of the land for profitable use is reduced by reason of such restrictions;

(ii) no regard shall be had—

- (a) to any machinery affixed to the land;
- (b) to any metals, minerals, gems, precious stones, coal, mineral oil, or phosphatic substances contained or supposed to be contained in the land;
- (c) (in the case of land held under any tenure peculiar to goldfields or mineral fields otherwise than under a miner's homestead lease), to any improvements other than buildings.

(2) When any land is the subject of more than one Crown lease, then the estate, right, or interest of each Crown lessee shall be valued separately as if a valuation of a separate piece of land were being made.

**224.** When more persons than one are in separate occupation of a building erected upon any portion of rateable land, each of them shall be deemed to be in occupation of a part of the land, and the unimproved or annual value of such part shall be taken to bear the same proportion to the unimproved or annual value of the whole of the land as the annual value of the part of the building occupied by him bears to the annual value of the whole of the building.

Valuation of land when building thereon occupied by more than one person.  
No. 38 of 1919, s. 218.

**225.** Where any rateable land held by any person liable to be rated in respect thereof is divided into lots, the board may either value such land as a whole or may value each lot separately:

Valuation of subdivided lots.  
No. 38 of 1919, s. 219.

Provided that so far as any lots are unimproved, the total valuation of such lots separately valued shall not exceed the valuation of the land taken as a whole.

**226.** Save as hereinafter provided, tramways or railways (including buildings, plant, and fixtures used solely for the purposes thereof) whether constructed on

Tramways or railways.  
No. 38 of 1919, s. 220.

unalienated Crown land or private land or on land held under or the subject of any other lease, license, or concession, shall (unless belonging to the Crown or exempted from rates by any Statute) be rateable under this Act on an annual value equal to five pounds per centum of the cost of construction and material less depreciation:

Provided that in arriving at such capital cost, machinery and rolling stock shall not be taken into consideration:

Provided also, that any dispute as to such capital cost or percentage for depreciation shall be referred to and finally decided by the Minister:

Provided, further, that if the whole of the tramway or railway is not within one district, then the annual value of that part which is in a district shall be a reduced amount, which shall bear the same ratio to the annual value of the whole as the mileage of the tramway or railway within the district bears to the total mileage thereof.

Valuation of tramways constructed under the Tramways Act, 1885. No. 38 of 1919, s. 221.

**227.** (1) Notwithstanding anything in this Act, but subject to any agreement made between the board and the promoters of any tramway under the provisions of section forty-six of the Tramways Act, 1885, the following provisions shall have effect with respect to the valuation and rating of tramways constructed in any road under the said Act, and used for the carriage of passengers or goods for hire, in lieu of the provisions of this Act relating to the valuation of land or tramways and the making of rates in respect thereof.

(2) In full satisfaction and discharge of all rates due by, or which might but for this section be imposed on, the tramway company in respect of all lines of tramway constructed in any road and in respect of all lands, buildings, and works used by the company for tramway purposes only in connection therewith, a payment of three pounds per centum of the gross earnings of the vehicles of the company running upon such lines shall be made by the company to the board in every financial year:

Provided that if the whole of the car route of the tramway is not on a road or roads within the district, then the company shall pay to the board under this section a reduced amount, which shall bear the same ratio to the

amount which would be payable if the car route were wholly on a road or roads within the district as the mileage of the car route on a road or roads within the district bears to the total mileage of such car route:

Provided also, that the earnings from the running of special vehicles on any tramway for the convenience of work-people, at rates not exceeding one half-penny per mile per passenger, may, with the consent of the board, be deducted from the gross earnings for the purposes of this section.

(3) The company shall keep proper books of record, in which shall be shown the gross earnings from the vehicles running upon each route, and such books shall be open to the inspection of any officers appointed by the Minister or any board concerned.

(4) In the month of July in every year the tramway company shall deliver to the board a return showing the gross earnings of the vehicles running upon any and every such route under its control during the year ending the thirtieth day of June next preceding, or any part thereof, verified by statutory declaration.

(5) All moneys payable under this section shall be recoverable in like manner as rates are recoverable under this Act.

(6) In this section the term "car route" means the road (being a road on which a tramway is constructed) traversed by a tram-car or tram-wagon on its journey between the points of departure and destination.

(7) The provisions of this section shall not be deemed to exempt from liability to rating any other land owned or occupied by the tramway company which may be or become rateable.

(8) In this section "tramway company" and "company" includes any person, corporation, or company by whom any tramway is held, maintained, or worked.

(9) Any company making default in the delivery of the annual return required to be made by this section shall be liable to a penalty not exceeding five pounds for every day during which such default shall continue.

(10) Every company liable under this section shall be deemed to be a ratepayer occupying and owning rateable property the valuation whereof has been made on the annual value, and such annual value shall be deemed to be such an amount as, if a rate of one shilling and sixpence in the pound were levied thereon, would yield the amount paid by the company hereunder. The portion of the amount which shall be deemed to be paid hereunder in respect of any ward shall, in each year, be determined by the board, and the annual value of the property in respect of which the company shall be deemed to be a ratepayer in such ward shall thereupon be determined in the manner indicated above.

Valuation of  
gas mains  
and electric  
lines.  
No. 38 of  
1919, s. 222;  
No. 48 of  
1938, s. 11.

**228.** If any person, company, or corporation shall have undertaken, or shall hereafter undertake, the business of the supply of gas within a district, and for that purpose shall have laid down, or shall hereafter lay down, pipes in or under any road within the district, or if any person, company, or corporation shall have constructed, or shall hereafter construct, any electric lines in, under, or over any such road, then the following provisions shall have effect:—

(1) On or before the fourteenth of July in every year every such person, company, or corporation shall deliver to the board a return showing the amount actually received by such person, company, or corporation for the sale of gas and electricity within the district during the year ending the thirtieth day of June next preceding, verified by statutory declaration.

(2) Every such person, company, or corporation shall keep proper books of account which shall disclose the said receipts, and such books shall be open to the inspection of any officer appointed by the Minister or the board.

(3) In full satisfaction and discharge of all rates payable or which might but for this section be imposed in respect of such pipes and electric lines, and for any lands, buildings, and works used by such person, company, or corporation exclusively in connection with the manufacture and supply of gas or electricity, or gas and electricity within the district, a payment of not more than one and a quarter per centum of such gross receipts shall be made

by such person, company, or corporation to the board in every financial year, by equal half-yearly payments, on or before the first day of September and the first day of March in every such year:

Provided that where any such gas or electricity is supplied for power purposes at a rate lower than that charged for lighting purposes the payment to the board, in respect of such gas or electricity supplied for power purposes at such reduced rate, shall be not more than one quarter per centum of the gross receipts from the supply of such power.

(4) All moneys payable under this section shall be recoverable in like manner as rates are recoverable under this Act.

(5) In this section "electric line" means a wire or wires, conductor, or other means used for the purpose of conveying, transmitting, transforming, or distributing electricity, with any casing, coating, covering, tube pipe, pillar, pole, post, frame, bracket or insulator enclosing, surrounding or supporting the same, or any part thereof or any apparatus connected therewith, for the purpose of conveying, transmitting, transforming, or distributing electricity, but not a tramway line, telegraph line, or telephone line.

(6) Any person, company, or corporation making default in the delivery of the annual return required to be made by this section shall be liable to a penalty not exceeding five pounds for every day during which such default shall continue.

(7) Every person, corporation, or company liable under this section shall be deemed to be a ratepayer occupying and owning rateable property the valuation whereof has been made on the annual value, and such annual value shall be deemed to be such an amount as if a rate of one shilling and sixpence in the pound were levied thereon would yield the amount paid hereunder. The portion of the amount which shall be deemed to be paid hereunder in respect of any ward shall in each year be determined by the board, and the annual value of the property in respect of which the company shall be deemed to be a ratepayer in such ward shall thereupon be determined in the manner indicated above.

Valuers.  
No. 38 of  
1919. s. 223.

**229.** (1) The board may make any valuation itself, or may appoint a valuer or valuers, not being a member or members of the board, who shall make and return the valuation in a form to be prescribed by the board from time to time.

(2) The valuation so returned may be adopted by the board with or without alteration, and when adopted shall be the valuation of the board, subject to alteration as provided by this Act, and rates imposed under this Act shall be assessed thereon.

(3) The board may cause a valuation to be made whenever necessary for the purposes of this Act, and may adopt the same with or without alteration.

Entry on  
premises by  
valuer.  
No. 38 of  
1919. s. 224.

**230.** (1) The board and its officers and every valuer shall, for the purpose of making the valuation and return as aforesaid, have power to enter into and upon any rateable land without being liable to any legal proceedings on account thereof, and shall also have power to search in the Office of Titles and Registry of Deeds, or any office of the Department of Lands and Surveys, or of the Department of Mines, and to inspect all plans, grants, transfers, certificates of title, and memorials free of charge.

Valuer  
empowered to  
make  
inquiries.

(2) Any valuer may put to the owner, or agent of the owner, or any person in occupation or charge of any rateable lands which such valuer is authorised to value, any question necessary to enable such valuer to state correctly the several particulars required to be stated in his valuation with regard to the land.

Penalty for  
false  
answers.

(3) Every person who, after being informed by the valuer of the purpose in putting such questions, and of his authority to put the same, refuses or omits to answer the same to the best of his knowledge or belief, or makes any false answer or statement in reply to any question, shall, for every such offence, be liable to a penalty not exceeding ten pounds.

Penalty for  
wilfully incor-  
rect valua-  
tion.

(4) A valuer who makes a wilfully incorrect valuation shall be guilty of an offence against this Act, and liable for every such offence to a penalty not exceeding twenty pounds.

231. The Minister may make or cause to be made any valuation which a board may make or cause to be made, and may require the board to adopt any such valuation, and the board shall thereupon adopt the same without alteration as the valuation of the board.

Minister may cause valuation to be made.  
No. 38 of 1919, s. 225.

232. If for any financial year under this Act a board has assessed the unimproved value of any land for the purposes of this Act, and such valuation is similar in amount to the assessment of land made by the Commissioner of Taxation for the same year for the purpose of assessing land tax in respect of the same land, and subsequently during the said year the Commissioner's assessment of the said land is reduced under the Land and Income Tax Assessment Act, 1907-1948, the board shall forthwith similarly reduce its valuation, notwithstanding that the ratepayer may not have appealed against such valuation under the provisions of this Act relating to appeals.

If valuations of board and Commissioner of Taxation are the same and subsequently the latter's is reduced on appeal, board may similarly reduce its valuation.  
No. 38 of 1919, s. 225A, inserted by No. 35 of 1932, s. 42.

*Division (4)—Rates.*

233. (1) The board shall cause a book to be kept called "the rate book," according to the prescribed form, and shall enter therein—

Rate book.  
No. 38 of 1919, s. 226;  
No. 48 of 1938, s. 12;  
No. 5 of 1942, s. 5.

- (a) all rateable land within the district, and in the appropriate columns the unimproved value of the same, or the annual rateable value in cases where the rate is to be assessed on the annual value;
- (b) the name of the owner and other particulars indicated by the said form:

Provided that two or more properties of the same owner may be included in one assessment.

Provided also, that instead of keeping a book as mentioned in this subsection, the board may cause the particulars prescribed in paragraphs (a) and (b) of this subsection to be recorded by means of any system of recording and accounting approved by the Minister, and such system may be called and referred to as the rate book.

Inserted by No. 5 of 1942, s. 5.

Inserted by  
No. 5 of 1942,  
s. 5.

(2) The rate book, howsoever kept, shall be made up and completed not later than sixty-two days after the expiration of each financial year, and the chairman shall then initial the bottom of each page folio or card, as the case may require, either in his handwriting or by means of a stamp, and by such means initial any alteration or erasure on any such page folio or card.

(3) The validity of a rate book shall not be questioned on the ground of any error or omission therein or therefrom, or by reason of any non-compliance with any rule of procedure prescribed by this Act or any regulation made thereunder.

Owner where  
name not  
known to be  
rated as owner  
No. 38 of  
1919, s. 227.

**234.** Whenever the name of any owner liable to be rated or charged with payment of a rate is not known to the board, it shall be sufficient to rate, or serve notice, or to make demand upon such owner by the designation of "the owner," without stating his name.

Rate book of  
be open to  
inspection.  
No. 38 of  
1919, s. 228.

**235.** The rate book shall, at all reasonable times, be open to inspection by ratepayers.

One rate book  
and notice of  
assessment  
may be used  
for several  
rates.  
No. 38 of  
1919, s. 229.

**236.** It shall not be necessary to have a separate rate book and notice of assessment for each rate which a board makes, whether under the authority of this or any other Act; but the board may from time to time in its discretion utilise one rate book and one notice of assessment for all or any such rates.

Various rates  
may be ag-  
gregated in  
one sum and  
entered in  
one column  
of the rate  
book

Inserted by  
No. 19 of  
1943, s. 6.

**236A.** Where a board under this Act is also a board or local governing body under any other Act or Acts (other than a water board under the Water Boards Act, 1904-1949, and under such other Act or Acts is required to impose or levy upon and assess to rates lands which are also rateable land under this Act, and under the authority of section two hundred and thirty-six of this Act the board uses one rate book for all the various rates which it imposes or levies under this Act and such other Act or Acts, the board may, subject to the approval of the Minister, aggregate the several amounts of all such various rates into one sum as if it were one complete rate, and enter the same in one column only of the said rate book and issue one notice of assessment for all the various

rates aforesaid accordingly, but so that particulars of the amounts of each of the rates included in such one notice of assessment are shown separately therein.

237. (1) The board may from time to time alter or amend any rate book made or to be made by—

Alteration or amendment of rate book.  
No. 38 of 1919, s. 230.

- (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 board that owing to any error in entering the rate in the rate book 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 board, is necessary for the purpose of the exercise by the board of the power conferred by section two hundred and thirty-two and two hundred and forty-five or two hundred and forty-eight; or
- (g) making such other additions, alterations, or amendments thereto or therein as will make the rate book conformable to any Act for which it is required to be used; or
- (h) correcting or supplying any accidental error or omission.

No. 35 of 1932, s. 43.

(2) No such alteration, addition, or amendment shall be held to avoid the rate.

(3) No alteration or addition, or amendment in or to the rate book shall be valid unless the same is initialed by the chairman, and the date of such alteration, addition, or amendment is also inserted.

(4) The power to alter or amend a rate book, as aforesaid, shall extend to the rate book for the current year, and to the rate books for the last preceding five 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 appeal against any entry in the rate book as altered or amended, or against any entry added to the rate book, or against any decision of a board given on such appeal, in manner provided in Division (5), and for the purposes of appeal every notice given under subsection five shall be deemed a notice of assessment.

If board's valuation of land reduced the board shall refund excess rates paid.  
No. 38 of 1919, s. 230A, inserted by No. 35 of 1932, s. 44.

**238.** If a board shall, after the rates have been paid in respect of any land, reduce its valuation of such land as provided for in section two hundred and thirty-two of this Act, the board shall, when application is made, forthwith refund to the ratepayer such amount of the rates paid as aforesaid as exceeds the amount of the rates which would have been payable if the same had in the first instance been assessed on the said valuation as reduced, or, if no such application is made, the amount of rates as aforesaid shall be placed to the credit of the land so rated.

Minister may extend time for making up rate book.  
No 38 of 1919, s. 231.

**239.** If from any cause the valuation has not been made or the rate book has not been made up within the time limited by this Act for the purpose the Minister, if reasons satisfactory to the Minister are advanced for such delay, may, by an order in writing, extend such time. All rate books hitherto made up, and all rates hitherto levied, are hereby declared to be valid, notwithstanding that the rate book may not have been made up within the appointed time, or any failure on the part of the board to otherwise comply with the provisions of any Act hereby repealed.

Board to prepare annual estimates  
No. 38 of 1919, s. 232.

**240.** (1) The board shall, in July in every year, prepare two statements in writing, in such form as may be prescribed by the Minister, signed by the chairman, the one showing the expenditure of the board during the past financial year, and the other showing the proposed expenditure of the board during the current financial year.

(2) The board shall also, in the course of the said month, estimate as nearly as may be—

- (a) the amount which will be required to meet the several liabilities of the board and the proposed expenditure for the current financial year determined on as aforesaid, and otherwise to carry into effect the provisions of this Act;
- (b) how far the several sources of ordinary revenue, independent of rates, will be sufficient for that purpose; and
- (c) what sum will be required to make up the deficiency, if any, found to exist on comparing the sum required with the estimated revenue of the board independently of rates.

241. (1) The board, after making such estimate and statement, and ascertaining the sum that will be required to make up the deficiency found to exist on comparing the sum required with the estimated revenue of the board independently of rates, shall forthwith impose rates, to be called "general rates," within the district.

Board authorised to strike rate.  
No. 38 of 1919, s. 233, repealed and new section 233 inserted by No. 35 of 1932, s. 45.

(2) No general rates imposed in any one year shall exceed fourpence or be less than one half-penny in the pound on the unimproved value of rateable land, in cases in which rates are assessed on that value: Provided that, in any such rural district as the Minister may approve, the rate may be increased to sixpence in the pound, and in any such metropolitan district as the Minister may approve it may be increased to ninepence in the pound.

(3) In cases in which rates are assessed on the annual value, no general rate imposed in any one year shall exceed two shillings or be less than sixpence in the pound upon such annual value.

(4) All such rates shall be uniform throughout the district, except in so far as the board may, as it is hereby empowered, by special order, with the consent of the Minister—

- (a) fix the rates for any townsite or for any special area defined for that purpose by proclamation, or for any mining lease at a higher figure; or

- (b) fix the rates for any ward or wards at a higher figure than that fixed for other ward or wards :

Provided, that the limits of the general rates as heretofore defined shall not be exceeded, and that any additional amount raised in any townsite or special area or ward by reason of the rates being fixed at a higher figure shall be expended on or applied in payment for works or services in such townsite or special area or ward, and not otherwise.

(5) In this section "rural" means situated outside the metropolitan area; and "metropolitan" means situated within such area; and "metropolitan area" means the area from time to time declared by proclamation to constitute the metropolitan area for the purposes of this section.

Loan rates.  
No. 38 of  
1919, s. 234;  
No. 22 of  
1941, s. 8.

**242.** (1) The board shall impose in every year such loan rate on all rateable land in the district as may be necessary to enable the board to pay the interest on money lawfully borrowed by the board, or for the payment of which the board is liable, and also such percentage of the principal sum as is named in the debentures issued to raise such money for the purposes of a sinking fund :

No. 35 of  
1932, s. 46.

Provided that where a loan has been raised for any works or services which in the opinion of the board raising the loan were likely to, do, or will benefit only a particular portion of the district, and also will benefit in varying degrees particular areas in such portion of the district, and a notification of such opinion was included in the notice published prior to the adoption of the proposition for the loan, any loan rate applicable to such loan shall be levied only on rateable land within such particular portion of the district, unless the approval of the Governor is obtained by the board to such rate being levied within other portions of the district, and shall be uniform throughout such particular portion of the district, unless in the opinion of the board particular areas therein are benefiting or will benefit in varying degrees as aforesaid, in which case the board may, in such manner and in such amounts as it may think just and equitable,

vary the amount of such loan rate to be levied upon rateable land in such particular areas respectively. In cases where approval has been obtained to levy the rate in other portions of the district as aforesaid, the power hereby conferred upon the board to vary the amount of such rate for particular areas shall extend to such other portions of the district:

Provided also, that, so far as the board is liable for the principal and interest of any loan raised by any dissolved municipality the district of which has been included in the road district, the loan rate to provide interest and sinking fund in respect of such loan shall be levied only on the rateable land in the district of such dissolved municipality:

Provided also, that if on the raising of a loan and the issue of debentures provision is made, or may hitherto have been made, for repayment of the principal with interest by half-yearly or other periodical instalments in lieu of the formation of a sinking fund, such loan rate may be imposed as may be necessary to enable the board to pay such instalments, and, so far as any rate has hitherto been imposed by a board, it shall be deemed to have been lawfully imposed.

*Ibid.*, s. 46  
(b).

(2) A separate account shall be kept of such loan rate, which, subject to the last proviso to subsection one, shall be applicable solely to the payment of the interest secured by the said debentures and the formation of a sinking fund.

No. 36 of  
1932, s. 46  
(c)

(3) If in any year the proceeds of such loan rate are in excess of the sum required for those purposes, such excess shall be kept in hand towards the payment of the next year's interest.

(4) If in any year the proceeds of such loan rate are insufficient for the purposes aforesaid, the board shall make good such deficiency out of its ordinary revenue, but may, in any succeeding year, when the proceeds of the said rate are in excess of the requirements, repay itself the amount so paid out of the ordinary revenue.

(5) When the proceeds of a loan have been invested in a reproductive undertaking, the board may, with the consent of the Minister, use and apply the net income derived

Inserted by  
No. 22 of  
1941, s. 8.

from such undertaking to meet its commitments each year in respect of interest and sinking fund in relation to the said loan and—

- (a) where such net income is sufficient to meet in full the amount of the board's said commitments in any year, it shall not be necessary for the board to impose a loan rate under subsection (1) of this section for that year;
- (b) where such net income is sufficient to meet only in part the amount of the board's said commitments in any year, the board may impose such loan rate under subsection (1) of this section as will be sufficient to provide an amount which, together with the said net income available, will be sufficient to meet in full the board's said commitments for that year;
- (c) if in any year the net income and the proceeds of the loan rate imposed under paragraph (b) of this subsection are together insufficient to meet the commitments of the board in that year in respect of any such undertaking the board may pay the deficiency out of its general revenue, and in such case subsection (4) of this section shall apply.

*Ibid.*, s. 46  
(e).

(6) If, on the redemption of a loan there is a surplus of the loan rate levied in respect of such loan, such surplus may be applied as ordinary revenue.

*Lighting rate.*  
No. 38 of  
1919, s. 234A,  
inserted by  
No. 35 of  
1932, s. 47.

**243.** (1) The board may, for the purpose of defraying the cost or any part of the cost of lighting the district, or any part thereof, impose in any year a lighting rate.

(2) Such rate shall not exceed one half-penny in the pound on the unimproved value, or threepence in the pound on the annual value.

(3) All rates imposed on property in any part or parts of the district shall be applied only for the lighting of such part or parts.

(4) Such lighting rate shall be imposed only on the rateable land within a town or prescribed area or part of the district as may be served or benefited by such lighting.

**244.** A minimum sum of two shillings and sixpence in respect of the general rate, and a minimum of one shilling in respect of the loan rate and a minimum of one shilling in respect of the lighting rate may be levied on any rateable land, or if the board thinks fit, on each of the several lots into which any rateable land may be subdivided for sale, leasing, or partition, the annual general, lighting, or loan rates, as the case may be, in respect of which on the unimproved value or the annual value, as the case may be, would not amount to two shillings and sixpence, or one shilling respectively.

Minimum rate.  
No. 38 of 1919, s. 235;  
No. 35 of 1932, s. 48.

**245.** Every rate shall be made and levied for the current year ending the thirtieth day of June next following, and every financial year shall end on that date.

Rates to be made for the financial year  
No. 38 of 1919, s. 236.

But the board may at any time impose supplemental, general, or other rates for the unexpired portion of the current financial year, and may for the purposes of, and when making such rates or any other rates which may happen to be made (under this or any other Act) after the general rates for the year, make any such alterations in, additions to, the rate book (but without obliterating existing entries) as may be deemed necessary to complete the rate book for such supplemental or other rates, and to show therein all matters and facts which, if the rate book were being then compiled, would appear therein: Provided that no board shall exceed its rating limits as by law defined.

**246.** Whenever any rate has been made and levied by the board, the chairman shall, on a vacant page or pages of the rate book, to be left blank for such purpose, enter a memorandum thereof, and shall sign the same, and publish a copy of the same in a newspaper; and thereupon, subject to any by-law as to the time and mode of payment, the said rate shall become due and payable:

Manner of making rate.  
No. 38 of 1919, s. 237.

But no proceedings to recover or enforce payment of the same shall be taken till after the expiration of one month from the making of the rate.

**247.** (1) The board shall, as soon as practicable after the making of any rate, cause the amount payable in respect of the rate to be entered in the rate book in respect of each assessment, and a notice of the assessment in the

Notice of assessment.  
No. 38 of 1919, s. 238.

prescribed form to be served upon every owner whose name is inserted in the rate book or his attorney or agent.

(2) Two or more properties may be included in one notice.

Application  
of this Part  
to annexed  
areas.  
No. 38 of  
1919, s. 239.

**248.** When a municipal or road district or portion of such district has become transferred to a road district in any financial year after the completion of the rate book for any rate, then the board may (with the consent of the Minister and subject to such exceptions and conditions, if any, as he may think fit to impose) declare that all rateable land within such transferred area shall be subject to such rate. And the board shall make such additions to the rate book as may be necessary to complete the same for the purposes of this section, and to show therein all such matters and facts in respect of such land as are required to be inserted concerning rateable land, and such rate shall then and thereupon be deemed to have been duly made on and in respect of such land:

Provided that the board shall be entitled to such proportion only of such rate as would (if the rate accrued due from day to day) accrue due in respect of such land during the balance (unexpired at the date of the transfer) of the period for which the rate was made.

Provision in  
case of new  
district.  
No. 38 of  
1919, s. 240.

**249.** (1) The board of any newly constituted district may, with the consent of the Minister, and subject to such exceptions and conditions (if any) as the Minister may see fit to impose, exercise the powers and carry out the duties and obligations granted to and imposed upon a board by this part of this Act as soon after its election as may be practicable, having regard to the intervals of time respectively assigned for the doing of any act under the provisions of this Act.

(2) For the purposes of this section the board of any such newly constituted district may prepare a statement and estimate in respect of the remaining period of the then current financial year from the date of the constitution of the district, and the maximum and minimum of any rate to be imposed under this section shall bear the same ratio to the maximum and minimum fixed by section two hundred and forty-one as the portion of the current financial year unexpired at the date of the constitution of the district bears to a full year.

**250.** The Governor may exempt any district, or any portion of any district, from the operation of this division of this Act for such time as the Governor may think fit, but particulars in writing of every exemption granted and the grounds thereof shall be placed before both Houses of Parliament.

Exemption.  
No. 38 of  
1919, s. 241;  
No. 22 of  
1941, s. 9.

*Division (5)—Appeals.*

**251.** Any person may appeal against an entry in the rate book on any of the grounds following, that is to say—

Grounds of  
appeal.  
No. 38 of  
1919, s. 242.

- (1) that any property for which he stands rated is valued above its full and fair rateable value at the time of the completion of the rate book;
- (2) that any property included, for which he stands rated was not rateable at the time of the completion of the rate book;
- (3) that such person was not at such time liable to be rated in respect of land for which he stands rated.

**252.** Appeals shall be made to the board, and from the decision of the board there may be a further appeal to the Local Court held nearest to the office of the board, as hereinafter provided.

Appeals, how  
made.  
No. 38 of  
1919, s. 243

**253.** 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 appeal against any entry in the rate book in the same manner as if he were the owner of the said property, and as if his name had been inserted in the rate book as such owner.

Appeals by  
occupiers.  
No. 38 of  
1919, s. 244.

**254.** (1) Every appeal to the board shall be by notice in the prescribed form setting out the grounds of appeal.

Appeals to  
the board.  
No. 38, 1919,  
s. 245.

(2) The notice of appeal shall be given to the secretary to the board within two months, in the case of districts situated wholly or in part north of the twenty-sixth parallel of south latitude, and within one month in all other cases, after the receipt by the appellant of the notice of assessment.

No. 35 of  
1932, s. 49.  
No. 22 of  
1941, s. 10.

(3) No appeal shall be entertained unless the appellant deposits in the hands of the secretary, with the notice of appeal, the amount of one quarter of the rate payable in respect of the entry appealed against:

Provided that this subsection shall not apply when the person appealing is a pensioner or other person who has claimed and obtained under the provisions of the Pensioners (Rates Exemption) Act, 1922-1943, exemption from liability for the payment of rates under this Act.

(4) Notice of the day appointed by the board for the hearing of the appeal shall be given to the appellant six days at least before the day of hearing, and notice in the prescribed form shall also be posted outside the office of the board.

(5) The secretary shall take and keep full notes of all evidence adduced before the board on the hearing of any appeal.

Appeal to the  
Local Court.  
1919, No. 38,  
s. 246.

**255.** (1) Every appeal to the Local Court from the decisions of the board shall be commenced by notice, in the prescribed form, setting out the grounds of the appeal.

(2) The notice shall, within ten days after the decision appealed from, be served on the secretary to the board and the clerk of the Local Court.

(3) On receipt of the notice the secretary of the board shall forthwith send to the clerk of the Local Court a certified copy of the notes of the evidence adduced before the board.

(4) 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 and all other persons (if any) required to be served therewith.

No. 35 of  
1932, s. 50.

(5) The appeal shall be heard and determined on the evidence adduced before the board, as certified to the court by the secretary, and such further evidence as may be adduced before the court.

**256.** (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 Local Court.

Court may order costs. 1919, No. 38, s. 247.

(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.

(3) The obligation to pay, and the right to receive and recover, any rates shall not be suspended by any appeal: but, if the appellant succeeds, any amount received from him by the board which, according to the decision on such appeal, was not properly payable by him shall be forthwith refunded by the board: Provided that the court in which any proceeding for recovery of rates is taken may order a stay of proceedings, pending appeal, on such terms (if any) as shall seem just.

**257.** The decision of the Local Court on any appeal shall be final and conclusive.

Decision of Court final. 1919, No. 38, s. 248. Power to state case.

Provided as follows:—

- (1) The magistrate of the Local Court may, in his discretion, before pronouncing his decision, state and sign a case setting forth the facts and any question of law arising thereon on which he desires direction, and transmit the same to the Registrar of the Supreme Court.
- (2) A party to the appeal may thereafter set the case down for hearing before the Full Court, and shall give to every other party, or the attorney or agent by whom he was represented in the Local Court, at least ten days' notice of the hearing.
- (3) The Full Court shall hear and determine such question as aforesaid, and remit the case with

its opinion thereon to the Local Court, and the Local Court's decision on such question shall be given in accordance with such opinion.

- (4) The Full Court may at any time cause a case to be sent back for amendment, and thereupon the same shall be amended accordingly, and judgment shall be delivered after it has been amended.
- (5) The Full Court may make such order as to the costs of and incidental to the case and of all proceedings in or before the Supreme Court as it shall think just.

*Division (6)—Liability for and Recovery of Rates.*

*(A)—General.*

Who is liable  
for rates.  
No. 38 of  
1919, s. 249.  
No. 35 of  
1932, s. 51.

**258.** (1) All rates imposed under this Act and entered in any rate book shall (together with the costs of any proceedings for the recovery thereof) be a first charge on the land rated (after rates and taxes due to the Crown or any department or agency of the Government of the State and any mortgage to the Rural and Industries Bank), and shall be recoverable by the board from—

- (a) the owner at the time of the completion of the rate-book;
- (b) any person who whilst the rates are unpaid becomes the owner of the land rated, or any part thereof:

Provided that no person who, as being trustee of any estate by virtue of any proceeding under the Bankruptcy Act, 1924-1948, or the liquidator in the winding up of a company under the Companies Act, 1943-1949, has become the owner of any rateable land, shall on that account be personally liable to pay out of his own moneys or otherwise than out of the estate in his hands any rates due on such land when he becomes owner thereof as aforesaid, or be so personally liable as aforesaid to pay any rates assessed on such land thereafter if he proves to the satisfaction of and obtains a certificate in writing from the Minister that a continuance of his ownership of the said land is essential in the interests of that estate, or that he is unable to dispose of the said land.

(2) If any person, without the permission of the board removes any building or structure from any land which is subject to a charge under this section, or demolishes or destroys any building or structure on any such land, he shall be guilty of an offence against this Act.

Penalty: Fifty pounds.

**259.** If a mortgagee of rateable land pays any rates accrued thereon under this Act or any Act relating to the constitution of road districts heretofore in force, including any interest due upon such rates and 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.

Payment of rates by mortgagee.  
No. 38 of 1919, s. 250.

**260.** An unsatisfied judgment or order of any court for the recovery of any rates (with or without interest) from any person shall not be a bar to the recovery thereof from any other person liable under the provision of this Act to the payment thereof.

Persons liable to be resorted to in succession.  
No. 38 of 1919, s. 251.

**261.** Rates recoverable under this Act shall for the purposes of this section be apportionable between successive owners 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 of several portions of the land rated according to the respective values of such portions; and any person who is or has been an owner 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 board.

Apportionment of rates.  
No. 38 of 1919, s. 252.

**262.** (1) The board may recover any rates in arrear imposed under this Act, or any Act relating to the constitution of road districts, and the costs of any proceedings

Complaint or action for rates.  
No. 38 of 1919, s. 253.

for the recovery thereof, from any person liable to pay the same either by complaint of the secretary before any two justices, or by action at the suit of the board in any court of competent jurisdiction:

Provided that no person against whom an order has been made by justices on any such complaint shall be liable to be imprisoned for the non-payment thereof, except under the provisions of the Debtors Act, 1871, and proceedings under that Act may be taken in respect of any such order as if it were a judgment within the meaning of that Act.

(2) For the purposes of any such complaint or action all rates shall be deemed to be payable at the office of the board.

All rates may be included in one summons.

(3) All rates due by the same person to the board, whether under this Act or any other Act, may be included in one writ, summons, complaint, or other process; but (except as herein otherwise specifically provided) the rights of the parties in any proceedings for the recovery of rates under any such other Act shall be the same as if this Act had not been passed. No rates shall carry interest for any period subsequent to this Act, and any board may, with the consent of the Minister, remit any interest which has accrued due to it on any rates before the commencement of this Act.

Discount on rates for prompt payment.  
No. 38 of 1919, s. 254.  
No. 35 of 1932, s. 52.

**263.** (1) The board may, if authorised by its by-laws, allow to any person who pays the rates for which he is liable within the time prescribed by the relative by-laws, a percentage by way of discount to be fixed by the by-laws, but not exceeding five pounds per centum of the amount of such rates.

No. 50 of 1930, s. 2.

(2) The board may in any year, if authorised by the Governor, declare in respect of the general rate struck for that year a rebate of such amount as may be approved by the Minister. Notice thereof shall be published in the *Gazette* and in a newspaper circulating in the district, and thereafter ratepayers shall be liable to pay for such year the amount of the general rate as assessed less the amount of such rebate.

(3) If any ratepayer shall have paid the amount of the general rate as assessed before a rebate in respect thereof is declared as provided for in subsection two hereof, such

ratepayer may apply for and the board shall forthwith refund to him the amount of rebate allowable in respect of the amount of general rate already paid as aforesaid, and if not so applied for shall be placed to the credit of the land so rated.

(4) The provisions of subsections two and three hereof shall apply to the general rate struck for the financial year current at the rate of the commencement of the said subsections.\*

**264.** In any action, suit, or other proceeding by or on behalf of a board for the recovery of any amount due by any person in respect of any rate, such person shall not be permitted to raise as a defence any failure to comply in relation to such rate with any provision of this Act, if it shall appear that the board did in fact assent to the imposition of such rate, and had power to impose the same.

Non-compliance with procedure prescribed in Act not to prevent recovery of rate.  
No. 38 of 1919, s. 255.

**265.** If any person sued or proceeded against shall prove that any notice required to be given under section two hundred and forty-seven or subsection five of section two hundred and thirty-seven has not been given, the claim of the board shall not on that account fail, but the defendant may raise as a defence of the whole or part of the claim any objection which might have been raised on an appeal.

Defence in special cases.  
No. 38 of 1919, s. 256.

**266.** (1) In any proceeding to recover, or consequent on the recovering of the amount due in respect of any rate, the rate book, duly signed or initialed by the chairman, 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 the chairman or secretary, shall be *prima facie* evidence of the contents of such book 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 have been given or complied with.

Rate book to be evidence.  
No. 38 of 1919, s. 257.

(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 objection which might have been raised on an appeal, and such first-mentioned defence shall not be raised by any party who has already unsuccessfully raised it as an objection on an appeal.

(3) No jurisdiction otherwise competent to entertain such a proceeding or to hear any appeal 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 or appeal shall be admissible in any court as evidence of title.

Refusal to give name of person liable. No. 38 of 1919, s. 258.

**267.** If on inquiry being made by the secretary or any collector of rates—

- (a) the occupier of any land refuses or wilfully omits to disclose, or wilfully misstates the name of the owner of such land, or of the person receiving or authorised to receive the rents of the same; or
- (b) the person receiving or authorised to receive the rents of any land refuses or wilfully omits to disclose, or wilfully misstates the name of his principal,

he shall be liable to a penalty not exceeding five pounds.

List of defaulters may be published. No. 38 of 1919, s. 259.

**268.** The board 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.

Arrears may be written off. No. 38 of 1919, s. 260. No. 64 of 1946, s. 11.

**269.** (1) The board may, with the approval of the Minister, write off arrears of rates due in respect of any rateable land.

(2) The board may, with the approval of the Minister, refund rates which shall have been paid by any ratepayer in respect of any year or years during which such ratepayer shall have been absent on war service from his

Inserted by 1946, s. 11. No. 64 of

farming or grazing land, and in respect only of so much of such land as was unoccupied by reason of the ratepayer's absence as aforesaid; or out of production.

(B)—*Power to Lease.*

**270.** (1) When in respect of any rateable land any rates accrued thereon under this Act, or any Act providing for the constitution of road districts, have, whether before or after, or partly before and partly after, the commencement of this Act been unpaid for three years, or longer, the board may, subject to the conditions hereinafter prescribed, and notwithstanding anything to the contrary contained in the Transfer of Land Act, 1893-1946, and notwithstanding any change that may have taken place in the meantime in the ownership of the land, apply to the Local Court held nearest to the office of the board for an order for possession of the land: Provided that no such application shall be made in respect of land which has not at the date of the application been alienated from the Crown in fee simple.

Power to lease land on which arrears of rates are due. 1919, No. 38, s. 261.

(2) Every such application shall be made in the manner and subject to the rules set out in the Third Schedule, and the proceedings provided for therein shall thereupon be taken and have effect as therein directed.

**271.** (1) After the registration of the order for possession as provided in the said schedule the board may take possession of the said land and hold the same as against any person interested therein, and from time to time grant leases of the same; but such land shall nevertheless continue to be rateable.

Powers of taking possession and leasing. No. 38 of 1919, s. 262.

(2) On taking possession of any land as aforesaid, the board shall cause to be fixed upon some conspicuous part thereof a notice in the prescribed form.

(3) Every such lease of the land shall—

(a) be for such term, not exceeding seven years, as to the board seems fit;

(b) reserve the best rent which can be reasonably obtained for the property; and

(c) contain such other reservations and such exceptions, covenants, and conditions as to the board seems fit.

(4) The lessee shall be entitled, during the term of the lease, to possession of the land as against all persons interested therein.

(5) The Registrar of Titles, upon the production to him of any such lease of land which is subject to the provisions of the Transfer of Land Act, 1893-1946, shall register the same. The production of the duplicate certificate of title shall not be insisted on, but the registrar may, if he thinks fit, make such orders and publish such advertisements as are provided for in the case of dealings with land when the certificate of title is lost or not produced.

(6) Notwithstanding anything herein, any order for possession and any possession taken or lease granted shall be without prejudice to the rights of the Rural and Industries Bank under any mortgage of the land, or to the recovery of any rates or taxes due to the Crown, or any department or agency of the Government of the State.

Release of  
property after  
demand and  
payment of  
arrears.  
No. 38 of  
1919, s. 263.

**272.** (1) Upon demand made by any person who but for the provisions of this Act would be entitled to the possession of any such land, such demand being made within twenty-five years after the taking possession thereof by the board, and upon payment within that time of all rates due in respect thereof, the board shall, within three months, execute under its seal a release of such land from all rates due in respect thereof.

(2) If the board makes default in executing such release, the Supreme Court may, at the suit of any person interested in that behalf, order it to execute the same.

(3) Upon the execution of the release such person shall, subject to any lease theretofore lawfully granted by the board under the provisions of this Act, be entitled to such land and the possession thereof as would have been so entitled if this Act had not been passed; and the tenant of such land under any such lease shall attorn to such person accordingly.

273. All rent and other moneys payable under any such lease shall, until the execution of a release as hereinbefore mentioned, or the expiration of twenty-five years from the taking possession thereof by the board, whichever first happens, upon receipt thereof by the board, be applicable—

Appropriation  
of rents  
received.  
No. 38 of  
1919, s. 264.

Firstly—In defraying the expenses of and incidental to the giving of the notices hereinbefore mentioned, and the execution of the lease, and the collection of the rents.

Secondly—In payment of all unpaid rates and taxes for the time being due to or imposed in favour of the Crown in right of the State or any department or agency of His Majesty's Government of the State.

Thirdly—In payment to the board of all unpaid rates for the time being due to or imposed by the board in respect of such land.

The residue of any such moneys shall belong to such person as would, when the same respectively were received, have been entitled to receive the rents and profits of the land if this Act had not been passed, and in case of doubt the board may pay any moneys into the Supreme Court under section forty-six of the Trustees Act, 1900.

274. Unless with twenty-five years after possession is taken of land under the foregoing provisions of this Act some person entitled in that behalf performs the conditions entitling him to demand a release of the land, such land shall vest in the board for an estate in fee simple subject to the exceptions, conditions, and powers (if any) contained in the grant of the land and to any public rights of way and to any easements acquired by enjoyment or user or subsisting over and upon or affecting the land and to any rates and taxes due on the land and to any mortgage in favour of the Rural and Industries Bank, but free from all other encumbrances.

Land when  
vested in the  
board.  
No. 38 of  
1919, s. 265.

275. (1) In any case in which any rates (whether becoming due before or after the commencement of this Act) in respect of any land being rateable property (other than land of or belonging to the Crown) have been due

Powers of  
board.  
cf. S.A. Local  
Government  
Act, 1934-  
1936, s. 268.  
Repealed and  
inserted, No. 6  
of 1946, s. 12.

and owing for not less than five years, the board shall by virtue of this Act, have the following powers:—

I. Power to sell the said land.

II. Power to transfer or convey the land sold.

(2) The said power of sale shall include—

(a) a power to sell the land or any part thereof either together or in lots by public auction or by private contract subject to such terms and conditions with respect to the payment of the purchase money or any other matter (including power to fix a reserve) as the board thinks fit;

(b) power to vary any contract of sale and to buy in at any auction;

(c) power to rescind any contract for sale and to resell without being answerable for any loss occasioned thereby;

(d) power to make such streets and roads and to grant such easements of right-of-way or drainage over the same as the circumstances of the case may require and the board thinks fit:

Provided that the land shall not be sold by private contract unless or until the same has been first offered for sale by public auction.

Conditions  
for exercise  
of power of  
sale.  
Ibid. s. 269.  
Repealed and  
inserted by  
No. 64 of  
1946, s. 12.  
Fourth  
Schedule.

**276.** (1) A board shall not exercise the power of sale conferred by this subdivision unless and until notice requiring payment of all rates owing in respect of the land has been—

(a) in the case of land under the Transfer of Land Act, 1893-1946, served on the person registered as the proprietor in fee simple thereof by being delivered to him or by being sent in a registered letter posted to him at his address (if any) appearing in the register book;

(b) in the case of land not under the Transfer of Land Act, 1893-1946, served on the owner in fee simple thereof or on the person appearing

by the last memorial relating to the land in the Office of the Registrar of Deeds to be seized of the fee simple thereof, by being delivered to him or by being sent in a registered letter posted to him at his address (if any) appearing in the said memorial;

- (c) served on every person appearing by the register book kept at the Lands Titles Office or any memorial in the Office of the Registrar of Deeds to have any estate or interest in the land by being delivered to him or by being sent in a registered letter posted to him at his address (if any) appearing in the register book or memorial;
- (d) posted on the land for not less than one month; and
- (e) posted in a conspicuous place at the office of the board for not less than one month.

(2) If in the case of any person required by this section to be served, no sufficient address appears in the register book or memorial, notice requiring payment shall be served on that person by being advertised once in a newspaper circulating in the neighbourhood of the land, and once in the *Gazette*. It shall be competent to include in any such notice lands within the same area belonging to more than one owner. Any such notice may be in the form No. 1 in the Fourth Schedule, or in a form to the like effect.

277. (1) Every such notice requiring payment shall—

- (a) be in writing and be dated and signed by the secretary on behalf of the board;
- (b) specify the total amounts owing in respect of rates of which payment is required;
- (c) specify the land in respect of which the rates are owing by a sufficient description of the land and the name of the registered proprietor in fee simple or the person seized of the fee simple thereof; and
- (d) include a statement that in default of payment of the amounts therein specified, the land will

Contents of notice.  
Ibid. s. 270.  
Repealed and inserted by No. 64 of 1946, s. 12

be offered for sale by public auction after the expiration of three months from the date of notice at a time appointed by the board.

(2) Subject to subsection (2) of section two hundred and seventy-six, every such notice may be in the form No. 2 in the Fourth Schedule, or in a form to the like effect.

Fixing of  
time for sale  
by auction.  
Ibid. s. 271.  
Repealed and  
inserted by  
No. 64 of  
1946, s 12.

**278.** The board shall appoint a time not less than three months and not more than twelve months from the service of the notices required by section two hundred and seventy-six at which the land may be offered for sale by public auction.

Advertise-  
ment for  
sale.  
Ibid. s. 272.  
Repealed and  
inserted by  
No. 64 of  
1946, s. 12.

**279.** (1) The sale shall be advertised—

- (a) twice at least in a newspaper circulating in the neighbourhood of the land;
- (b) once at least in the *Gazette*;
- (c) by posting a copy of the advertisement in a conspicuous place at the office of the board and keeping the same so posted for not less than twenty-one days;
- (d) by delivering a memorial of the advertisement to the Registrar of Titles, Registrar of Deeds, or other person having the custody or control of any register or public record relating to the said land, who, on payment of the prescribed fee, shall register such memorial and endorse or note the title or land register of every piece of land comprised therein.
- (e) by such further and other means (if any) as in the circumstances are reasonable and proper.

(2) Every such advertisement shall contain a sufficient description of the land and any improvements thereon (if any).

(3) In the advertisement it shall be competent to include lands within the same district belonging to more than one owner.

**280.** Up to the time of the actual sale of any land for non-payment of rates any person having any estate or interest in the land may pay all rates then in arrear, and the costs then incurred, and thereafter the proceedings shall be stayed, and the board shall deliver to the Registrar of Titles, Registrar of Deeds or other person having the custody or control of any register or public record relating to the said land for noting on the title or land register a certificate under the hand of the secretary certifying that such rates and costs have been paid, and such title or land register shall be noted accordingly by the proper officer, whereupon the said land shall cease to be bound.

Right to pay rates.  
Ibid. s. 273.  
Repealed and inserted by No. 64 of 1946, s. 12.

**281.** A board exercising the power of sale conferred by this subdivision shall have power by proper transfer (where the land is under the Transfer of Land Act, 1893-1946, and subject to registration under that Act), and by proper deed or transfer (where the land is not under the Transfer of Land Act, 1893-1946), to transfer or convey an indefeasible estate in fee simple, or (if such land has not been alienated from the Crown in fee simple) all the estate and interest therein of every person (other than the Crown), and all the estate and interest which any such person is entitled or able to transfer, assign, convey or dispose of therein, and the estate of the purchaser shall be subject to the exceptions, conditions and powers (if any) contained in the grant or Crown lease or conditional purchase lease of the land, and to any public rights of way and to any easements acquired by enjoyment or user or subsisting over and upon or affecting any land, and to any charge imposed by a law of the Commonwealth, and to any rates and taxes imposed or to be imposed on or in respect of the land after the date of the sale, and to any mortgage in favour of the Rural and Industries Bank of Western Australia but free from other encumbrances and charges.

Power of board to transfer or convey land.  
cf. ibid.  
s. 275, and W.A.'s 280.  
Repealed and inserted by No. 64 of 1946, s. 12.

**282.** A transfer or conveyance expressed to be in exercise of the power of sale conferred by this subdivision shall, if accompanied by a statutory declaration by the secretary of the board that the provisions of this sub-

Statutory declaration.  
Ibid. s. 275.  
Repealed and inserted by No. 64 of 1946, s. 12.

division have been complied with, be accepted by the Registrar of Titles, the Registrar of Deeds, the Under Secretary for Lands or other person having the custody or control of any register or public record relating to the said land, as sufficient evidence that the power of sale has been duly exercised.

Duties of  
board and  
Registrar.  
Repealed and  
inserted by  
No. 64 of  
1946, s. 12.

283. (1) The transfer or conveyance shall be in the proper form prescribed by the Act or law governing the registration of transfers or conveyances of the land, and shall be executed under the common seal of the board.

(2) The transfer or conveyance shall be forwarded to the Registrar of Titles, Registrar of Deeds, Under Secretary for Lands, or other person having the custody or control of the public record relating to the said land, for registration, and shall be accompanied by the prescribed registration fees.

(3) Where the land sold is under the Transfer of Land Act, 1893-1946, the Registrar of Titles, upon production to him of the transfer and declaration as aforesaid, shall register the same, and notwithstanding any provision of the said Act to the contrary, production of the certificate of title shall not be required, but, for the purposes of registration, the Registrar may, if he thinks fit, make such orders and publish such advertisements as are provided for in the case of dealings with land when the certificate of title is lost or not produced.

(4) Where any transfer or conveyance is made in professed exercise of the power of sale conferred by this Act, the title of the purchaser shall not be impeachable on the ground that no case had arisen to authorise the sale or that due notice was not given or that the power was otherwise improperly or irregularly exercised; but any person damnified by an unauthorised or improper or irregular exercise of the power shall have his remedy in damages against the board by which the power was exercised. No such person shall have his remedy in damages or for compensation against the Crown or the assurance fund established under the Transfer of Land Act, 1893-1946.

**284.** If rates are owing for the period aforesaid in respect of more than one piece of land in the name of the same owner, within the same district, all the said moneys and all the said lands may be set forth in one notice requiring payment and in one advertisement of sale.

Combination of all lands of same owner. Ibid. s. 278. Repealed and inserted by No. 64 of 1946, s. 12.

**285.** The money received by the board arising from the sale shall, notwithstanding the disability of any person or any statute of limitations, be held by the board to be applied as follows:—

Application of purchase money. cf. *ibid.* s. 279, W.A. s. 279. Repealed and inserted by No. 64 of 1946, s. 12.

Firstly—In payment of the costs, charges and expenses properly incurred by the board as incidental to the sale or attempted sale or otherwise.

Secondly—In payment of all unpaid rates and taxes, and any costs and other moneys (if any) due to or imposed in favour of the Crown in right of the State or any department, agency, instrumentality or branch of His Majesty's Government of the State other than the Rural and Industries Bank of Western Australia, and also of all unpaid rates due to or imposed by the board and the local authority under the Health Act, 1911-1948, in respect of the land at the time of the sale, whether pursuant to this Act or any other Act, and whether a charge upon the land or not: Provided that where the moneys remaining after the payments provided for in the next preceding paragraph have been made, are not sufficient for the payment in full of all the items mentioned and provided for in this paragraph, such moneys shall be distributed between the Crown, the department, the agency, the instrumentality, the branch and the board pro rata with the amounts of their claims respectively, unless the Governor, or the Minister controlling the department, agency, instrumentality or branch (as the case may require) shall consent to rank after the board or local authority, or both.

Thirdly—In payment of any moneys due under any mortgage to the Rural and Industries Bank of Western Australia: Provided that nothing in

this Act shall affect the validity or operation of section eighty-nine of the Rural and Industries Bank Act, 1944-1949.

Fourthly—In payment of all vendor's costs and expenses of and in connection with conferring upon the purchaser a clear title to the land.

Fifthly—In or towards the discharge of all or any other mortgages, encumbrances, whether registered or not, according to their respective priorities, so far as the same can be ascertained by the board.

Sixthly—In payment of the residue of the money within twelve months after the receipt thereof to the person who would, but for the proceedings for sale, be entitled to the land, or if there be several persons who would be so entitled, then to such persons in the proportions in which they would be respectively so entitled: Provided that, if any person is entitled to an estate in reversion or remainder in the said land, the money may be paid into the Supreme Court under section forty-six of the Trustees Act, 1900:

And thereafter any money so paid into Court shall be subject to the provisions of the said Act so far as the same are applicable; but any petition, claim, suit or action for or in respect of any such moneys shall be presented within six years after payment as aforesaid of the residue into the Supreme Court, and after the expiration of the said period, all moneys then in the Supreme Court to the credit of the particular trust concerned shall, if there be no such petition, claim, suit or action pending, or any order of the Supreme Court to the contrary, be paid into and form part of the general revenue of the State.

Receipt of  
board a dis-  
charge.  
Ibid. s. 280.  
Repealed and  
inserted by  
No. 64 of  
1946, s. 12.

**286.** The receipt in writing of the board, under the hand of the chairman and secretary, shall be a sufficient discharge for any money paid on the exercise of the power of sale conferred by this subdivision, and a person paying the same to a board shall not be concerned to inquire whether any money remains due to the board for rates or otherwise in respect of the land sold.

**286A.** Where any alteration has been made in the boundaries or constitution of any district wherein the land was situate during the period when the rates or part thereof became due, the board of the district within which the land is situate at the time the provisions of this subdivision are put into force shall be entitled to exercise all the powers conferred by this subdivision.

Changes in boundaries of districts.  
Ibid. s. 281.  
Inserted by No. 64 of 1946, s. 12.

**286B.** If the land is not sold, and, in the case of land under the Transfer of Land Act, 1893-1946, a transfer thereof is not registered within twelve months of the date of the delivery to the Registrar of Titles of a memorial of the advertisement referred to in section two hundred and seventy-nine of this Act, then, subject to the two next succeeding sections of this Act, the advertisement and all subsequent proceedings under this subdivision shall no longer be in force, and shall cease to bind the land.

Power to sell after advertisement lapses if sale not made within a year.  
cf. former W.A. s. 277.  
Inserted by No. 64 of 1946, s. 12.

**286C.** (1) If any land is offered for sale by auction pursuant to this subdivision, but no bid is made for the land at the auction, and the land is unsold within the period of twelve months mentioned in the last preceding section, and has been alienated from the Crown in fee simple, the board, with the consent of the Minister, shall have power by transfer (where the land is under the Transfer of Land Act, 1893-1946) and by deed (where the land is not under the Transfer of Land Act, 1893-1946) to transfer or convey an estate in fee simple to His Majesty. The Minister shall not give his consent as aforesaid unless he is satisfied that there is no reasonable prospect of selling the land pursuant to this subdivision within a reasonable time.

Power to transfer land to Crown.  
Ibid. s. 281A.  
Inserted by No. 64 of 1946, s. 12.

(2) Where the land is under the Transfer of Land Act, 1893-1946, the transfer shall be executed in proper form under the common seal of the board, and where the land is not under such Act, the conveyance shall be executed under the common seal of the board, and shall be registered under the Registration of Deeds Act, 1856.

(3) Upon the transfer or conveyance being lodged with him, or the conveyance being registered, the Registrar of Titles, or Registrar of Deeds, as the case may be, shall make any entry in the register book or other book of the Office of Titles or the Office of the Registrar of Deeds

which may be necessary or proper to evidence that the land is vested in His Majesty. Notwithstanding the provisions of the Transfer of Land Act, 1893-1946, upon the making of such entry the land shall be deemed to be, and may be dealt with as, Crown lands free from any mortgage, lease, tenancy, encumbrance, charge or reservation of any kind.

If the land is under the Transfer of Land Act, 1893-1946, the Registrar of Titles shall cancel any certificate of title relating to the land by indorsing thereon "Cancelled, the within land having been acquired by the Crown and removed from the operation of the Transfer of Land Act, 1893-1946, and the land shall, for the purposes of the Transfer of Land Act, 1893-1946, and until again alienated from the Crown, be dealt with and regarded in all respects as if it had never been alienated from the Crown.

If the land is not under the Transfer of Land Act, 1893-1946, the Registrar of Deeds may require the board to deposit with him a plan or map of the land as if an application had been made to bring the land under the Transfer of Land Act, 1893-1946.

(4) No stamp duty shall be payable upon any such transfer or conveyance, and no fee of any kind shall be payable upon lodging or registering any such transfer or conveyance in the Office of Titles or the Office of the Registrar of Deeds.

(5) A transfer or conveyance expressed to be in exercise of the power conferred by this section shall if accompanied by a statutory declaration of the secretary that the provisions of this subdivision have been complied with, be accepted by the Registrar of Titles or the Registrar of Deeds, as the case may be, as sufficient evidence that the power has been duly exercised.

(6) No transfer or conveyance made in professed exercise of the power conferred by this section shall be impeachable on the ground that no case had arisen to authorise the exercise of the power, or that due notice was not given, or that the power was otherwise improperly or irregularly exercised, but any person damnified by an unauthorised or irregular exercise of the power shall have his remedy in damages against the board by

which the power was exercised. No such person shall have his remedy in damages or for compensation against the Crown or the assurance fund established under the Transfer of Land Act, 1893-1946.

286D. (1) If any land is offered for sale by auction pursuant to this subdivision, but no bid is made for the land at the auction, and the land is unsold within the period of twelve months mentioned in section two hundred and eighty-six B of this Act, and has been alienated from the Crown in fee simple, the board, with the consent of the Minister, shall have power by transfer (where the land is under the Transfer of Land Act, 1893-1946) and by deed (where the land is not under the Transfer of Land Act, 1893-1946) to transfer or convey an estate in fee simple to the board. The Minister shall not give his consent as aforesaid unless he is satisfied that there is no reasonable prospect of selling the land pursuant to this subdivision within a reasonable time, and the said consent may be given on the condition that the board will pay the whole or any part of any sum secured by or payable under any mortgage, lease, tenancy, encumbrance or charge in favour of the Crown, the Government of the State, or any department, agency, instrumentality or branch of such Government.

Power to  
transfer land  
to board.  
Ibid. s. 281B.  
Inserted by  
No. 64 of  
1946, s. 12.

(2) Where the land is under the Transfer of Land Act, 1893-1946, the transfer shall be executed in proper form under the common seal of the board, and where the land is not under such Act, the conveyance shall be executed under the common seal of the board, and shall be registered under the Registration of Deeds Act, 1856.

(3) The Registrar of Titles or Registrar of Deeds, as the case may be, shall, on receipt of any such transfer or conveyance and upon payment of the prescribed fee, make an entry in the register book or other appropriate book which may be necessary or proper to evidence that the land is transferred or conveyed to the board, and in the case of land under the Transfer of Land Act, 1893-1946, the Registrar of Titles may issue to the board a Certificate of Title. If the land is not under the Transfer of Land Act, 1893-1946, the Registrar of Deeds may

require the board to deposit with him a plan or map of the land as if an application had been made to bring the land under the Transfer of Land Act, 1893-1946.

(4) A transfer or conveyance expressed to be in exercise of the power conferred by this section shall, if accompanied by a statutory declaration of the secretary that the provisions of this subdivision have been complied with, be accepted by the Registrar of Titles and Registrar of Deeds as sufficient evidence that the power has been duly exercised.

(5) No stamp duty shall be payable upon any such transfer or conveyance.

(6) Notwithstanding the provisions of the Transfer of Land Act, 1893-1946, the registration of a transfer as aforesaid shall vest in the board an indefeasible estate in fee simple in the land free from any mortgage, lease, tenancy, encumbrance or charge.

(7) No transfer or conveyance made in professed exercise of the power conferred by this section shall be impeachable on the ground that no case had arisen to authorise the exercise of the power, or that due notice was not given, or that the power was otherwise improperly or irregularly exercised, but any person damnified by an unauthorised or improper or irregular exercise of the power shall have his remedy in damages against the board by which the power was exercised. No such person shall have his remedy in damages or for compensation against the Crown or the assurance fund established under the Transfer of Land Act, 1893-1946.

Discharge of liability on sale of land. *Ibid.* s. 282. Inserted by No. 64 of 1946, s. 12.

286E—Any sale of land by the board pursuant to this subdivision, or any transfer or conveyance made pursuant to either of the two next preceding sections of this Act, shall discharge the land and all owners and occupiers thereof, and all previous owners and occupiers thereof, from any liability to the board for rates or other moneys due to the board for any purpose which, at the time of the sale or the transfer or the conveyance, were a charge upon the said land, or which were otherwise recoverable by the board in respect of the said land, whether pursuant to this Act or any other Act.

286EA. (1) If land is—

- (a) alienated from the Crown in fee simple,
- (b) rateable property,
- (c) situate wholly or partly in a townsite,
- (d) vacant, whether enclosed with a fence or not enclosed, and
- (e) land in respect of which no rates (whether assessed or not) have been paid for a period of at least seven years expiring on or after the thirtieth day of June One thousand nine hundred and forty-eight

Application may be made to vest certain lands in His Majesty.  
Inserted by No. 25 of 1947, s. 13.

the board for the district in which the land is situate may apply in form and manner prescribed to the Minister for a certificate that the land shall be vested in His Majesty.

(2) The Minister shall consider the application and the circumstances surrounding the application and may grant or refuse such application.

(3) If the application is granted the Minister shall issue a certificate in form and manner prescribed that the land shall be vested in His Majesty and shall cause to be delivered to the Registrar of Titles, the Registrar of Deeds or other person having the custody or control of any register or public record kept for the purpose of recording the ownership of and transactions relating to land a copy of the certificate.

(4) Upon delivery pursuant to subsection (3) of this section of the copy of the certificate the provisions of section two hundred and eighty-six C of this Act shall apply (the necessary changes by way of adaptation being made) as if the copy of the certificate were a transfer or conveyance (as the case may be) expressed to be in exercise and in professed exercise of the power conferred by that section and accompanied by a declaration under subsection (5) of that section.

286F. Subject to section two hundred and eighty-six E of this Act, the powers conferred by this subdivision shall not affect any other remedy of a board for the recovery of rates.

Saving provision.  
Ibid s. 288  
Inserted by No. 64 of 1946, s. 12.

## Division (7)—Overdraft.

Overdraft.  
No. 38 of  
1919, s. 273;  
No. 31 of  
1942, s. 2.

**287.** The board, pending the collection of any rates, or the receipt of any subsidies in aid of rates or grants payable by the Government, may, for the purpose of commencing, carrying on, or completing works, or of meeting urgent commitments of the board in respect of loans, obtain advances from any bank by overdraft of the current account, but no such overdraft shall at any time exceed one-third of the ordinary revenue of the board for the year then last preceding: Provided that the bank making such advances shall not be concerned to inquire whether the same have been obtained for the purposes set forth in this section, nor be required to see to the application of such advances.

## PART VII.—BORROWING AND SPECIAL POWERS.

Power to borrow money.  
No. 38 of  
1919, s. 274.

**288.** Subject to the provisions and for the purposes hereinafter mentioned the board may borrow money as hereinafter provided.

Purposes for which money to be borrowed.  
No. 38 of  
1919, s. 275.

**289.** Money may be borrowed for works or undertakings, or to liquidate the principal moneys owing by the board on account of any previous loan.

Amount to be borrowed.  
No. 38 of  
1919, s. 276.  
No. 35 of  
1932, s. 55.  
No. 16 of  
1934, s. 2.

**290.** (1) The amount of money so borrowed at any time for works or undertakings shall not exceed—

- (a) ten times the average ordinary revenue of the board for two years terminating with the yearly balancing of accounts next preceding the notice in the *Gazette* of such loan hereinafter mentioned; or
- (b) in the case of any board already indebted, the difference obtained by subtracting from ten times such average revenue the balance remaining unpaid of any previous loans:

Provided that for the purpose of this subsection a loan shall be deemed to be repaid to the extent of the sum standing for the time being to the credit of the sinking fund formed for its redemption.

(2) The amount of moneys borrowed to liquidate any loan shall not exceed the balance of principal moneys owing on account of such loan.

(3) In the case of any new district, money may, with the approval of the Minister be borrowed by the board for the purposes aforesaid at any time during the two years terminating with the balancing of the second year's accounts, to an amount not exceeding the aggregate ordinary revenue of the board for the said two years as estimated by the board.

(4) When any municipal district has been converted into or incorporated in a district, then the ordinary revenue of such municipal district which accrued or became due or owing within the two years aforesaid, may be taken into account for the purposes of this section, as if it had been an ordinary revenue of the district into or in which the said municipal district has been converted or become incorporated.

291. (1) The works and undertakings hereinafter specified and no other shall be deemed works and undertakings within the meaning of this part of this Act (that is to say)—

Permanent  
works and  
undertakings.  
No. 38 of  
1919, s. 277.  
No. 35 of  
1932, s. 56.  
No. 46 of  
1946, s. 4.

- (a) the opening, making, paving, or partial paving of roads and footways, the diverting, altering, or increasing the width of any road or footways, or the kerbing of footways;
- (b) the raising, lowering, or altering of the ground or soil of any road;
- (c) the construction, purchase, and establishment of bridges, culverts, ferries, wharves, and jetties;
- (d) the construction, enlargement, and alteration of sewers and drains and works connected with sewerage and drainage under the powers conferred on the board by any Act relating to public health, and the purchase or erection of machinery for the treatment of refuse;
- (da) the construction or acquisition by purchase or otherwise and establishment of hostels for school children whether such hostels be within the board's own district or in the district of any other board or municipal council whose district adjoins or is adjacent to the district of the board and with which other board or

Inserted by  
No. 46 of  
1946, s. 4.

municipal council the board has united or intends to unite in such construction or acquisition and establishment.

Inserted by  
No. 25 of  
1947, s. 14.

(db) (i) Subject to the approval of the Governor given on the recommendation of the Minister, and to the provisions of this paragraph, the erection on any land vested in or acquired by the board for the purpose, of houses to be let on lease or sold under contract of sale to any persons to whom the board may be willing to let on lease or sell the same;

Inserted by  
No. 25 of  
1947, s. 14.

(ii) a board which proposes to exercise the power conferred by subparagraph (i) of this paragraph shall in the first instance set out its proposal with all material particulars in writing and submit the same to the Minister for his consideration;

Inserted by  
No. 25 of  
1947, s. 14.

(iii) on receipt of a proposal from a board under subparagraph (ii) of this paragraph and after consideration thereof the Minister may—

(a) decline to recommend the same to the Governor, or

(b) request the board to amend its proposal in such manner as the Minister may require, or

(c) recommend the proposal or the amended proposal (as the case may be) to the Governor for approval;

Inserted by  
No. 25 of  
1947, s. 14.

(iv) if the Governor approves of a proposal submitted to him under this paragraph, notice of the approval shall be notified to the board and published in the *Government Gazette*;

Inserted by  
No. 25 of  
1947, s. 14.

(v) the money required for the erection of a house or the acquisition of land for the carrying out of a proposal approved by the Governor under this paragraph shall be expended out of loan moneys raised for the purpose under this Part of this Act;

Inserted by  
No. 25 of  
1947, s. 14.

(vi) the rents and profits derived by the board from the leasing of houses, and the net proceeds derived by the board from the sale

of houses under this paragraph shall be used and applied for payment of interest and sinking fund contributions or otherwise for the redemption of the loan from which the moneys were taken;

(e) the purchase of lands and materials, and the making of compensation to the owner of any land purchased for any of the foregoing purposes;

(f) any other works or undertakings whatsoever approved by the Governor.

(2) If money is borrowed by a board for works or undertakings approved by the Governor, and it is proved to the satisfaction of the Governor that such works or undertakings are of a permanent and reproductive character, the provisions of section two hundred and ninety shall not apply, and any sum so borrowed shall not be taken into account in estimating the amount which may be borrowed for other purposes.

**292.** All moneys borrowed by the board for the purposes aforesaid may be raised by the sale of debentures.

Loans may be raised on debentures. No. 38 of 1919, s. 278.

**293.** Debentures issued by the board shall be in the prescribed form, and shall be numbered consecutively, and, except in the case of debentures issued to the Treasurer in a specially prescribed form, each debenture shall have annexed for every payment of interest, which becomes payable after the day on which such debenture is sold, a coupon bearing the same number as the debenture.

Form of debentures. No. 38 of 1919, s. 279.

**294.** (1) Every debenture issued shall entitle the bearer thereof to receive payment of the principal sum named therein, on presenting such debenture on or after the day on which such debenture becomes payable, at the place at which such debenture is payable.

Debentures to be payable to bearer. No. 38 of 1919, s. 280.

(2) Coupons annexed to debentures issued may be separated from the debentures to which they belong, and every such coupon shall entitle the person presenting the same, on or after the day on which the interest men-

tioned in such coupon is payable, at the place at which such interest is payable, to receive payment of such interest.

Debentures and coupons to pass by delivery.  
No. 38 of 1919, s. 281.

**295.** Every debenture and every such coupon, whether separated or not from the debenture to which it belongs, shall pass by delivery only, without any assignment or indorsement.

When debentures to be made payable.  
No. 38 of 1919, s. 282.

**296.** The principal moneys secured by every debenture issued shall be made payable on some day not more than thirty years after the date of such debenture.

Plans, specifications, and estimate to be prepared before borrowing.  
No. 38 of 1919, s. 283.

**297.** Before proceeding to borrow any money for the construction of works and undertakings the board shall cause to be prepared—

- (a) plans and specifications and an estimate of the cost thereof; and
- (b) a statement showing the proposed expenditure of the money to be borrowed, including the cost of supervision and initial expenditure in connection with the raising of the loan,

which shall be open to the inspection of the ratepayers for one month after the publication of the notice next hereinafter mentioned, at all reasonable times.

Notice to be published.  
No. 38 of 1919, s. 284.

**298.** No proposition for borrowing money shall be adopted by the board unless a notice thereof has been published in the *Gazette* and three times at least in a newspaper circulating in the district, not less than one month nor more than three months before such proposition is adopted, stating the amount proposed to be raised and the rate of interest to be paid on the debentures, the times and places at which any moneys due on such debentures are to be payable, and the purposes for which the loan is to be applied; and in case such loan is to be expended in the purchase of any works or undertakings, specifying such works or undertakings; and in case the loan is to be expended in the construction of works or undertakings, stating that the plans and specifications and estimate of such works or undertakings, and the statement hereinbefore mentioned, are open for inspection at the office of the board.

**299.** Within one month after the last publication of such notice of any proposition to borrow money (not being a proposition to borrow money to liquidate any loan lawfully incurred) any twenty resident owners may, in writing under their respective hands, delivered to the secretary, demand that the question whether or not such loan be raised be submitted to the vote of the resident owners of rateable land situated within the district:

Power to  
demand vote  
of owners.  
No. 38 of  
1919, s. 285.

Provided that not less than fourteen days before taking the poll any such resident owner of rateable land who has signed or acceded to the demand may, by writing under his hand delivered or sent by post to the chairman, withdraw his name therefrom, and any resident owner of rateable land may in like manner accede thereto.

No. 35 of  
1932, s. 57.

For the purposes of this and the three next following sections the term "resident owner" means any person residing in the district and entitled to a legal or equitable estate or interest in fee simple in rateable land within the district, or for a term of years having at least seven years unexpired.

**300.** (1) When any such demand has been made and adhered to by twenty resident owners, the votes of the resident owners in the district shall be taken on a day to be fixed by the chairman, not less than twenty-one days nor more than one month after the delivery of such demand, and such day shall be notified in some newspaper; and on such day a poll shall be taken of all such resident owners for and against the proposed loan.

Vote of  
owners, how  
taken.  
No. 38 of  
1919, s. 286.

(2) For the taking of such poll, a special roll shall be prepared by the secretary, and corrected, completed, and authenticated in the time, manner, and form prescribed by by-laws made under this Act:

Provided that where a loan is proposed to be raised for any works or services which in the opinion of the board would be of special benefit to a portion only of the district, and a notification of such opinion has been included in the published notice, only resident owners of rateable land within such portion of the district shall be qualified to vote at such poll.

(3) At the taking of such poll voting papers in the prescribed form shall be used; and all the provisions hereinbefore contained with reference to the taking of the poll

at the election of members of the board shall apply as nearly as may be.

(4) The board may make by-laws for the carrying into effect of the provisions of this section.

Power to board under certain circumstances to proceed to raise money.

No. 38 of 1919, s. 287.

No. 35 of 1932, s. 58.

**301.** If no demand is made and adhered to as aforesaid that the question whether or not such loan be raised be submitted to the vote of the resident owners, or if, on a poll being taken, a majority of those resident owners who vote on the question, vote in favour of such loan being raised, the board may proceed to make a special order for borrowing money for the purposes mentioned in such notice.

All debentures valid under certain circumstances.

No. 38 of 1919, s. 288.

No. 35 of 1932, s. 59.

**302.** Notwithstanding anything hereinbefore contained, if the board publish a notice of their intention to borrow money and no such demand as aforesaid is made, or, if it is made, the requisite majority in favour of the loan is obtained on the taking of the poll on the question submitted, the board may issue debentures, and such debentures shall be good and valid as against such board.

Sinking fund.

No. 38 of 1919, s. 289.

**303.** When a board has raised a loan or is liable for the repayment of any loan under the provisions of this Act, a sinking fund shall be formed to liquidate the same in manner following:—

The board shall, in every year after the issue of the debentures for such loan, cause a sum (being such percentage of the principal sum secured by such debentures as is named therein, not being at any time less than two pounds per centum of such principal sum) to be invested by the Treasurer in Western Australian Local Inscribed Stock or other Government securities (if available) in the joint names of the Treasurer and the Board, and to accumulate at compound interest for the redemption of such debentures:

No. 8 of 1925, s. 2.

No. 35 of 1932, s. 60.

Provided that it shall be lawful for the board, and it shall be deemed to have been lawful for a board, on the raising of any loan and the issue of debentures, to provide for the repayment of the principal money with interest by half-yearly or other periodical instalments in lieu of the formation of a sinking fund, in which case such

sum as may be necessary for the repayment of such instalments shall be set aside from time to time and applied to that purpose; and sections two hundred and ninety-two to two hundred and ninety-seven inclusive, shall have effect, *mutatis mutandis*, subject to this proviso.

**304.** (1) All moneys directed to be invested in the formation of a sinking fund to liquidate any loan may, in lieu thereof, be invested in the purchase of any debentures by the sale of which the loan was raised: Provided always, that any debentures so purchased, and all coupons belonging thereto, shall be forthwith cancelled and forwarded to the Treasurer with a memorandum of the moneys expended in their purchase, and it shall be the duty of the board to see that the same is done.

Power to purchase debentures instead of contributing to sinking fund.  
No. 38 of 1919, s. 290.

(2) During the period for which such cancelled debentures would have been current if they had not been so purchased, a sum equal to the annual interest and contribution to sinking fund which such cancelled debentures would have carried or entailed if not so purchased shall be provided by the board annually, and invested by the Treasurer in the manner prescribed by the last preceding section, and placed to the credit of the sinking fund.

(3) If, after obtaining an actuarial report, it appears to the Treasurer that the contributions that have been made to the sinking fund for the liquidation of a loan will, at compound interest, be sufficient to redeem the loan at maturity, the Treasurer may authorise the reduction in the percentage of such contribution, or the cessation of further contributions to the fund.

No. 35 of 1932, s. 61.

**305.** (1) Every board may purchase any debentures issued by the board under the provisions of this Act or any other Act providing for the constitution of road districts, and the ordinary revenue of the board shall be applicable to such purposes.

Power to purchase debentures.  
No. 38 of 1919, s. 291.

(2) Upon the purchase of any such debentures, the same and all unpaid coupons belonging thereto shall be forthwith cancelled, and it shall be the duty of the board to see that the same is done.

Sinking fund  
may be placed  
at fixed  
deposit.  
No. 38 of  
1919, s. 292.

**306.** Until such time as the board can purchase debentures, inscribed stock, or other Government securities of the State as aforesaid, the Treasurer may place the moneys of the sinking fund at fixed deposit in any of the banks doing business in the State, in the joint names of the Treasurer and of the board.

Investment of  
interest on  
sinking fund.  
No. 38 of  
1919, s. 293.

**307.** All interest on any inscribed stock or other securities or fixed deposit for the time being standing to the credit of any sinking fund shall be invested in the purchase of inscribed stock or other securities as aforesaid, or until such investment placed upon fixed deposit as aforesaid in the names and to the account as aforesaid.

Application of  
sinking fund  
to meet de-  
bentures.  
No. 38 of  
1919, s. 294.

**308.** When debentures are about to fall due, any inscribed stock or other securities comprised in any sinking fund formed to liquidate the same may be sold out, and the proceeds paid into such bank to the account of such person or persons as the Treasurer and the board may determine, and the money so paid into such bank shall be paid out to the bearers or registered holders of such debentures on presentation and delivery of the same.

Power to  
Treasurer to  
transfer sink-  
ing fund after  
repurchase  
of debentures.  
No. 38 of  
1919, s. 295.

**309.** On the presentation at the Treasury on behalf of the board of any debentures, and all unpaid coupons belonging thereto, together with a certificate signed by the Auditor General, stating what amount of inscribed stock or other securities and deposits comprised in any such sinking fund as aforesaid will be sufficient to secure the holders of all debentures (other than the first-mentioned debentures) secured by such sinking fund, and upon the cancellation of such first-mentioned debentures and coupons, the Treasurer may join in transferring to the board any balance of such sinking fund over and above the amount mentioned in such certificate.

When  
Treasurer  
may transfer.  
No. 38 of  
1919, s. 296.

**310.** Except for the purposes and subject to the conditions herein provided, the Treasurer shall not join in transferring any inscribed stock or other securities, or deposits forming part of any such sinking fund as aforesaid, unless he be ordered by the Supreme Court or a judge thereof so to do.

**311.** If any board has incurred more loans than one, every sinking fund formed under the provisions hereof shall be applicable in the first instance in liquidation of the debentures which such fund was formed to liquidate.

Priorities of  
debenture  
holder.  
No. 38 of  
1919, s. 297.

Save as aforesaid, both as to principal and interest, the holders of debentures, by the sale of which different loans were raised, shall have priority according to the notices of such loans published as aforesaid, and the holders of debentures, by the sale of which the same loan was raised, shall stand as between themselves on an equal footing.

**312.** If any board makes default in payment of any principal money or interest secured by any debenture or coupon, or in forming a sinking fund to liquidate any debentures as hereinbefore directed, the Supreme Court or a judge thereof may, on the petition of the holder of any debenture, appoint some person or persons, not exceeding three, to be a receiver or receivers of the whole annual ordinary revenue of such board and of the special rate levied in respect of any loan as aforesaid.

Power to  
appoint re-  
ceiver.  
No. 38 of  
1919, s. 298.

Every such receiver shall be deemed an officer of and shall act under the direction of the Supreme Court or a judge thereof.

**313.** The Supreme Court or a judge thereof may from time to time remove any receiver appointed, and on the death or removal of any such receiver may appoint some other person in his place.

Power to  
remove  
receiver.  
No. 38 of  
1919, s. 299.

**314.** The receiver or receivers appointed shall be entitled—

Powers of  
receiver.  
No. 38 of  
1919, s. 300.

(a) to receive and recover any part of the revenue (whether such part forms portion of the annual ordinary revenue of such board or of any special rate levied in respect of any loan as aforesaid) of the board that is outstanding at the time of his or their appointment;

(b) to receive and recover any part of such revenue that becomes due and payable as fully and effectually as the board might have done; and

(c) to impose rates.

For the purposes aforesaid, such receiver or receivers shall be deemed to be the board, and may exercise all the powers thereof (including all powers exercisable whether by the board or by the chairman or any member or officer thereof under Part VI of this Act).

Commission  
to receiver.  
No. 38 of  
1919, s. 301.

**315.** Every such receiver shall be entitled to such commission as remuneration for his services as the Supreme Court or a judge thereof directs.

Transfer of  
sinking fund  
to receiver.  
No. 38 of  
1919, s. 302.

**316.** The Supreme Court or a judge thereof may order the Treasurer and the board to transfer all inscribed stock and other securities and fixed deposits standing in their names, and forming any such sinking fund, into the name or names of the receiver or receivers.

Purposes for  
which receiver  
is to hold  
moneys.  
No. 38 of  
1919, s. 303.

**317.** Such receiver or receivers shall hold all moneys received and recovered, and the proceeds of all inscribed stock and other securities and all fixed deposits forming any sinking fund received by him or them, after payment of costs and expenses, for the benefit of all holders of debentures of the board, according to their respective priorities and subject thereto for the board.

Separate  
accounts to be  
kept of every  
loan.  
No. 38 of  
1919, s. 304.

**318.** The board shall cause a separate account to be kept in some bank for each separate loan, and if there is any surplus the board may apply the same in the repurchase of any debentures, or in the purchase of inscribed stock or other securities, or may place the same upon fixed deposit:

Provided that if at any time it shall be found inadvisable, inexpedient, or unnecessary to expend any such moneys for any of the purposes for which the same were borrowed, it shall be lawful for the board, by resolution to be passed by an absolute majority of the board, and confirmed at a meeting of ratepayers called for the purpose, to expend such moneys on other works and undertakings.

Balance of  
loan, how  
applicable.  
No. 38 of  
1919, s. 305.

**319.** If after the liquidation of any loan there is any balance of stock to the credit of the sinking fund, or of the proceeds thereof, the same shall be applicable as part of the revenue of the board.

PART VIIA.—AGREEMENTS BETWEEN BOARDS AND THE  
STATE HOUSING COMMISSION FOR THE PROVISION  
OF ROADS.

- 319A.** For the purposes of this Part of this Act—
- “account” means a separate account recorded by the board in respect of each agreement;
  - “advance” means an advance of money by the Commission to a board under an agreement;
  - “agreement” means any agreement relating to the provision of roads for an area and made between a board and the Commission under this Part of this Act;
  - “area” means any area of the land dedicated or leased to or purchased or acquired by the Commission for the purposes of the State Housing Act;
  - “Commission” means The State Housing Commission constituted under the State Housing Act.
  - “State Housing Act” means the State Housing Act, 1946-1948.

Interpretation.  
Inserted by  
No. 25 of  
1947, s. 15.

**319B.** When for any purpose necessary, convenient ancillary or incidental to the furtherance of the objects or facilitating the operation of the State Housing Act the provision of roads is required for any area, a board may at its discretion subject to this Part of this Act and to the approval of the Minister enter into agreements with the Commission and having entered into any agreement shall fulfil the same.

Agreements with Commission, relative to roads.  
Inserted by  
No. 25 of  
1947, s. 15.

**319C.** An agreement shall include provision that the board shall record separately in respect of the agreement an account in which there shall be credited to the Commission the amount of the advance made and debit from time to time to the Commission the amount of the general rate payable on the land in the area until the total of the debits equals the total of the credits when the board's liability for repayment under the agreement shall be discharged.

Agreements to provide record of debit and credit.  
Inserted by  
No. 25 of  
1947, s. 15.

The board shall also pay annually to the Commission interest at the rate determined in the agreement on the amount of the advance outstanding at the beginning of each financial year.

Sections 297 to 300, inclusive, not applicable to agreements. Inserted by No. 25 of 1947, s. 15.

**319D.** The provisions of sections two hundred and ninety-seven, two hundred and ninety-eight, two hundred and ninety-nine and three hundred of this Act shall not apply to an agreement or anything done in fulfilment thereof.

This part applicable to certain agreements. Inserted by No. 25 of 1947, s. 15.

**319E.** The provisions of this Part shall apply in respect of agreements made since the thirty-first day of July one thousand nine hundred and forty-seven and any agreement made since that day and anything done in fulfilment thereof is ratified and confirmed.

Provided that agreements shall be deemed to include the provisions of section three hundred and nineteen C of this Act.

#### PART VIII.—ACCOUNTS AND AUDIT.

Financial year. No. 38 of 1919, s. 306.

**320.** The financial year of every board shall end on the thirtieth day of June in every year.

Books of account, and inspection by persons interested. No. 38 of 1919, s. 307.

**321.** (1) Every board shall cause books to be provided and kept, and true and regular accounts to be entered therein of all sums of money received and paid on account of and for the board, and of the several purposes for which such sums of money have been received and paid; and the said books shall at all reasonable times be open to the inspection of any member of the board, ratepayer, or creditor of the board, and any such person may take copies of or extracts from the said books without payment of any fee.

(2) The Minister may from time to time prescribe the manner and form in which the books and accounts of the board shall be kept, and the same shall be kept accordingly.

(3) All books, accounts, and vouchers of the board shall at all times be open to the inspection of any person nominated by the Minister.

(4) Any person having the custody of the said books who shall not, on any reasonable demand of any such member, ratepayer, or creditor, or person nominated by the Minister, permit him to inspect the said books, or to take copies or extracts as aforesaid, shall be liable to a penalty not exceeding five pounds for every such offence.

(5) All moneys of the board shall be paid into such bank, and in such manner as the board shall from time to time appoint and direct for that purpose, and no sum exceeding five pounds shall be held in the hands of any member, or any officer, servant, or clerk of the board, for any period exceeding seven days.

(6) No such money shall be drawn out of such bank excepting by cheque signed by the chairman and countersigned by another member of the board and by the secretary, and the authority for payment shall be a resolution of the board duly entered in the minute book.

(7) If in any district the absence of banking facilities renders a strict compliance with subsections five and six of this section impracticable, the Minister may permit such modification thereof as he thinks fit.

(8) The Minister may remove any member or summarily dismiss any clerk or other officer of the board who fails or neglects to observe the provisions of this section.

322. Every secretary shall, once in every three months, prepare and place before the board a true statement in the prescribed form of the financial position of the board, including ordinary revenue and grants, which shall be entered on the minutes; and such statement shall be examined and compared with the vouchers and the minutes signed by the secretary and the chairman.

Quarterly financial statement. No. 38 of 1919, s. 308.

323. All moneys in hand on the last day of the financial year shall be paid to the credit of the banking account of the board, and shall be included in the banker's certificate of the amount standing to the credit of the board on that day, which certificate the board shall obtain and produce to the auditors.

Money in hand at end of each year to be paid into bank. No. 38 of 1919, s. 309.

324. (1) Every officer appointed or employed by the board shall from time to time, when required by the board, make out and deliver to the board, or to any person appointed by the board for that purpose, a true and perfect account, in writing under his hand, of all moneys received by him on behalf of the board.

Officers to deliver accounts, etc. No. 38 of 1919, s. 310.

(2) Such account shall state how, and to whom, and for what purpose such moneys have been disposed of, and, together with such accounts, such officer shall deliver the vouchers and receipts for such payments.

(3) Every such officer shall pay to the board, or to any person appointed by the board to receive the same, all moneys which appear to be owing by him upon the balance of such accounts.

Officers failing to render accounts or to pay balance, etc.  
No. 38 of 1919, s. 311.

**325.** (1) If any officer fails to render such account, or to produce or deliver up the vouchers and receipts relating to the same in his possession or power, or to pay the balance thereof when thereunto required, or if, for five days being thereunto required, any officer of the board fails to deliver up to the board, or to any person appointed by it to receive the same, all papers and writings, property, matters, and things in his possession or power relating to the execution of this Act or belonging to the board, proceedings may be instituted against him under the Justices Act, 1902-1948, by the secretary or any member of the board, and any two justices may hear and determine the matter in a summary way, and may order such officer to render such accounts or to deliver up such voucher or receipts as aforesaid, or to pay over the balance owing by him, or to deliver up all such papers, writings, property, matters, and things.

(2) Any officer who neglects or refuses to obey such order shall be guilty of an offence, and shall be liable, on conviction, to a fine not exceeding fifty pounds, or to imprisonment for not exceeding six months.

Auditors.  
No. 38 of 1919, s. 312.  
No. 35 of 1932, s. 62.

**326.** (1) There shall be one auditor for each district, to be appointed by the Minister.

(2) Any auditor appointed by the Minister shall be called a Government Inspector of Road Boards (hereinafter referred to as "inspector").

No. 35 of 1932, s. 62  
(b).

(3) Nothing in this section shall prevent a board appointing for its own purposes an auditor as an officer of the board under the provisions of section one hundred and twenty-nine of this Act: Provided that no board shall appoint or dismiss an auditor without first obtaining the consent of the Minister.

No. 35 of 1932, s. 62.  
cf. No. 38 of 1919, s. 312  
(1).

(4) Every auditor elected by the electors under this section and holding office at the time of this subsection

coming into operation shall continue to hold such office and perform the duties thereof for the unexpired portion of the term for which he was so elected.

**327.** (1) It shall be the duty of the inspector, in addition to his duties as auditor, to inquire into valuations, elections, and general administration, and to inspect roads and other works undertaken by the board:

Duties of inspector.  
No. 38 of  
1919, s. 313.

Provided that, during such time as any board has an auditor for its own purposes as an officer appointed under the provisions of section one hundred and twenty-nine of this Act, the accounts of such board may or may not be audited by the inspector as the Minister may determine.

No. 35 of  
1932, s. 63.

(2) The inspector shall have authority at all reasonable times and without notice to demand from the board and the officers thereof the production of all valuations, books, accounts, vouchers, papers, documents, and cash in hand belonging to the board in the custody of the board or any of its officers.

(3) Every board or officer neglecting or refusing to comply with any such demand shall be liable to a penalty not exceeding ten pounds for every day during which such demand is not complied with.

[ss. 314 to 318 of No. 38 of 1919 repealed by No. 35 of 1932, s. 64.]

**328.** (1) The board shall, within fourteen days after the end of each financial year, or such extended time as the Minister may allow, cause the accounts of the board to be balanced up to the last day of such financial year; and as soon as conveniently may be after such balancing the inspector shall audit the said accounts.

Annual balance and audit.  
No. 38 of  
1919, s. 319.  
No. 35 of  
1932, s. 65.

(2) The board shall, by their secretary or other proper officer, produce and lay before the inspector the accounts so balanced as aforesaid, with all vouchers in support of the same, and all books, papers, and writings in their custody or power relating thereto.

(3) If the accounts are found correct, the inspector shall sign the same in token of his allowance thereof,

but if he thinks there is just cause to disapprove of any part of the said accounts, he may disallow any part of the said accounts so disapproved of, and take such steps thereupon as are hereinafter provided.

(4) The Minister may at any time direct a special audit to be made by such person and in such manner as he may think fit.

Annual  
financial  
statement.  
No. 38 of  
1919, s. 320.  
No. 35 of  
1932, s. 66.

**329.** (1) An annual statement or summary, in the form prescribed by the Minister, showing the financial position of the board at the end of every financial year, shall be prepared by the board, showing, on the one side, the amount received from every source of income, and, on the other, the various matters and things on which the same has been expended; and

(2) in the case of any board that has borrowed any money during the year, or has brought forward any borrowed money from the preceding year, a statement shall be made showing, on the one side, all moneys so received or brought forward, and, on the other, the application of all such moneys as have been expended, and the amount remaining unexpended and to be carried forward; in the case also of any such board a statement shall be made showing, on the one side, the amount received from any special rate levied in respect of any loan as aforesaid, and, on the other, the application thereof, and also a statement with respect to the sinking fund, showing the amount standing to the credit of the board.

No. 6 of 1933,  
s. 14.

(3) Such statements shall be audited by the inspector, and, if found correct, shall be certified as correct under the hand of the inspector, and when so certified shall, within thirty clear days after the completion of such audit, be published in a newspaper usually circulating in the district at a cost not to exceed two pounds ten shillings, or at the option of the board brought to the notice of ratepayers by the transmission through the post to each ratepayer, at his address appearing in the rate-book, of a copy of such statements.

**330.** It shall be the duty of the inspector, if he shall find any accounts or statements submitted to him for audit to be erroneous or deficient in any particular, unless such error or deficiency be at once made good by the person or persons liable to make it good, instead of signing such account or statement, to publish in the *Gazette* and in a newspaper usually circulating in the district, a statement showing in what respects he has found such accounts or statements erroneous or deficient.

Duty of inspector.  
No. 38 of 1919, s. 321, repealed and new s. 321, inserted by No. 35 of 1932, s. 67.

**331.** (1) In auditing the accounts of any board, the inspector shall disallow any expenditure which is not authorised by or which contravenes any provision of this Act, and shall refer to the minutes of proceedings kept by the board to ascertain by whom such expenditure was authorised.

Duty of inspector, in cases of unauthorised expenditure.  
No. 38 of 1919, s. 322.  
No. 35 of 1932, s. 68

(2) The individual members of the board who have sanctioned any such expenditure as may have been disallowed shall be personally liable, jointly and severally, to make good to the board the amount so spent.

(3) The inspector shall certify to the board the amount of any such unauthorised expenditure, and the names of the members who are liable to make good the same as aforesaid; and in case the said sums are not made good to such board to the satisfaction of the inspector within seven days after such certificate is given, the inspector shall, in the name and on behalf of the board, sue for the same in any court of competent jurisdiction, and shall, if it appear to such court that such expenditure was not authorised, or was in contravention of any provisions of this Act as aforesaid, be entitled to judgment for the sum or sums so spent by any person or persons sued who may appear to have concurred in such expenditure; and the amount so recovered by the inspector in any such action shall be forthwith paid over by him to the board.

(4) In any such action as aforesaid the minutes of proceedings kept by the board shall be *prima facie* evidence of any facts therein stated.

**332.** The inspector may, at the expense of the board, take legal opinion on any question arising in the course of an audit.

Inspector may take legal advice.  
No. 38 of 1919, s. 323.  
No. 35 of 1932, s. 69.

[s. 324 of No. 38 of 1919 repealed by No. 35 of 1932, s. 70.]

Provision for payment of cost of audit. No. 38 of 1919, s. 325, repealed and new s. 325 inserted by No. 35 of 1932, s. 71.

**333.** (1) The cost of every audit by the inspector shall be assessed by the Minister, and one-half of such cost shall be payable to the Minister on demand by the board or boards in relation to which such audit has been made.

(2) If more than one board is concerned in any audit made by the inspector, the Minister may apportion the half cost of such audit among the boards so concerned in such proportions as he may think fit, and the amounts of such apportionments shall be payable to the Minister on demand by such boards respectively.

(3) Any moneys payable to the Minister by a board under this section shall be a debt due from the board to the Minister, and shall be recoverable by the Minister in any court of competent jurisdiction.

Governor may remove auditor from his office. No. 38 of 1919, s. 326

**334.** The Governor may at any time remove any auditor, whether appointed or elected, from his office.

Power to expend money for purposes not specifically authorised. No. 38 of 1919, s. 327.

**335.** The board may, in any year, expend a sum not exceeding three per cent. of its ordinary income for any purpose relating to the district or the credit thereof, although such disbursement may not be otherwise authorised by this Act.

#### PART IX.—OFFENCES AND MISCELLANEOUS.

Obstructing board or officers in performance of duty. No. 38 of 1919, s. 328.

**336.** Every person who wilfully obstructs the board, or any member, 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.

Penalty for obstructing road, etc. No. 38 of 1919, s. 329.

**337.** (1) Every person who—

- (a) wilfully obstructs any road or way; or
- (b) having obstructed a road or way neglects or refuses to remove the obstruction when required so to do by the board; or

- (c) when a road or way has become obstructed by any tree or portion of a tree which has fallen from its position on or over land owned or occupied by him, neglects or refuses to remove the obstruction when required so to do by the board,

shall be liable to a penalty not exceeding twenty pounds, together with the costs incurred by the board in removing such obstruction:

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

- (2) The board may remove any obstruction on a road, or on any way, if requested so to do by an adjoining land owner, or of its own motion.

**338.** 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 board shall be liable to a penalty not exceeding twenty pounds, and may be ordered by the convicting justices to pay to the board, 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.

Injury to property of board.  
No. 38 of 1919, s. 330.

**339.** Any person who neglects to keep in repair any fence or gate separating the land owned or occupied by such person from any road shall be guilty of an offence against this Act.

Neglect to keep in repair fence adjoining road.  
No. 38 of 1919, s. 331.

**340.** Any person leaving open any gate which has been placed across a road with the authority of the board shall be guilty of an offence against this Act.

Leaving open gate.  
No. 38 of 1919, s. 332.

**341.** When by this Act, or by any by-law or regulation thereunder, any act is directed to be done, or forbidden to be done, or where any authority is given to the board, or any officer of the board, to direct any act to be done, or to forbid any act to be done, and such act shall

Offences.  
No. 38 of 1919, s. 333.

remain undone, or having been forbidden shall be done, in every such case the person making default as to any such direction or prohibition, as the case may be, shall be deemed guilty of an offence against this Act.

Penalties.  
No. 38 of  
1919, s. 334.

**342.** Every person guilty of an offence against this Act, or of any by-law or regulation made thereunder, shall, for every such offence, if no other penalty is imposed, be liable to a penalty not exceeding twenty pounds.

Recovery of  
penalties.  
No. 19 of  
1919, s. 335.

**343.** Every penalty imposed by this Act or any by-law thereunder, and any other moneys made payable therewith, may be recovered in a summary way before any two justices of the peace in petty sessions.

Limitation.  
No. 32 of  
1919, s. 336.  
No. 19 of  
1948, s. 7.

**344.** All informations and proceedings in respect of offences against this Act or any by-law shall be commenced within twelve months after the offences thereby respectively charged have been committed, and shall be heard and determined, and the penalties in respect of the same may be enforced, subject to and in accordance with the provisions of the Justices Act, 1902-1948.

Incorporation  
of portions of  
Interpreta-  
tion Act.  
No. 38 of  
1919, s. 337.

**345.** Sections F, G, and H of the second schedule of the Interpretation Act, 1918-1948, are incorporated with this Act.

Penalties  
recovered to  
be paid to  
board.  
No. 38 of  
1919, s. 338.

**346.** All penalties recovered for offences against this Act, or any by-law thereunder, shall be paid to the board of the district in which the offence was committed.

Board may be  
represented  
by secretary  
or other officer  
No. 38 of  
1919, s. 339.

**347.** In all proceedings in any 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.

Property may  
be stated in  
indictment,  
etc., to be the  
property of  
the board.  
No. 38 of  
1919, s. 340.

**348.** 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 a board, 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 such board: and for the purpose of all legal proceedings, all roads, bridges, reserves, and other property and things whatsoever vested in or placed under the care, control or management of the board shall be deemed to be the property of the board.

**349.** No person shall be entitled to recover damages against any board, or any member, officer, or servant of the board, for anything done or omitted to be done in pursuance of this Act, or in respect of any loss or injury sustained either to himself or any other person or any property by reason of any accident upon or while using any road, way, bridge, ferry, wharf, or jetty in the district or under the control of the board, or in respect of any tort, unless the following conditions are complied with, or, in case such last-mentioned person or the then owner of such property may have died, within the time hereinafter allowed for giving notice by the one of such conditions which is numbered (1), the one of such conditions which is numbered (4) is complied with—

Conditions under which action against board may be brought.

No. 38 of 1919, s. 341, repealed and new s. 341, inserted by No. 35 of 1932, s. 72.

- (1) that notice in writing stating the name and address of the person injured, or of the owner of such property, the nature of the accident, and the time and place at which it took place, is given to the board or left at the office of the board by or on behalf of the person injured only, or on behalf of the owner of such property, within twenty-one days after the occurrence of the accident, or the plaintiff shows some sufficient reason why the person injured, or the owner of such property, was unable to give such notice;
- (2) that in case of injury to the person, the person injured permits himself to be examined by any legally qualified medical practitioner appointed on behalf of the board, and, if in a fit state so to do, answers fully such reasonable inquiries of such medical practitioner to enable him to ascertain the extent of the injury;
- (3) that in case of injury to property, the property injured, if it is possible so to do, is produced

for inspection of any person appointed on behalf of the board by the chairman or vice-chairman;

- (4) that one month's notice in writing of any action is given to the board, setting forth the particulars of the demand so far as the same can be reasonably supplied, and that the action be commenced within six months thereafter;
- (5) that the person injured, or the owner of such property, from time to time answers in writing all such reasonable inquiries relating to the cause of action as may be addressed to him by or on behalf of the board.

If any action for any such cause as aforesaid is commenced by any plaintiff when the conditions hereinbefore contained have not been complied with, and the board is able to prove by affidavit to the satisfaction of the court in which the action is pending that such is the case, such court may order such action to be stayed.

Charges need not be registered.  
No. 38 of 1919, s. 342.

**350.** 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, 1893-1946, or any other Act.

Notices.  
No. 38 of 1919, s. 343.

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

Service of documents on owners and occupiers.  
No. 38 of 1919, s. 344.

**352.** (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 thereunder on any owner or occupier whose name is unknown to the board, or whose address is unknown to the board, 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 three 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 document has to be proved, the defendant 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 or on behalf of the complainant 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, or of the secretary to the board, as the case may be, 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 proceedings under the Justices Act, 1902-1948, issued or made for any of the purposes of this Act or any by-law or regulation made thereunder, and "serve" includes "deliver," "give," and "send."

(7) Any complaint which it is necessary to make under or for the purposes of this Act or any by-law or regulation made thereunder against any owner or occupier whose name is unknown to the board may be laid against him by the description of "owner" or "occupier" of the premises (naming them) to which the complaint refers, without further name or description.

Notices binding on persons claiming under owner or occupier. No. 38 of 1919, s. 345.

**353.** 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. No. 38 of 1919, s. 346.

**354.** 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 or secretary.

Service on board. No. 38 of 1919, s. 347.

**355.** Any summons or notice, or any writ or other proceeding requiring to be served upon the board, may be served upon the secretary of the board.

Saving of civil remedy. No. 38 of 1919, s. 348.

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

Books of Land Titles and other offices may be searched without fee. No. 38 of 1919, s. 349.

**357.** Any person appointed under the hand of the Minister or the chairman of the board may, for the purposes of this Act, search the public registers of the Office of Titles and Registry of Deeds, or any office of the Department of Lands or of Mines without payment of any fee.

Proof of ownership or occupancy. No. 38 of 1919, s. 350.

**358.** (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 to any rate for the district within which such land is situated; or

(b) evidence by the certificate of—

(i) the Registrar of Deeds and Transfers or his substitute or any assistant Registrars of Deeds and Transfers, that any person appears from any memorial of registration of any deed, conveyance, or other instrument to be the owner of any land; or

- (ii) the Registrar of Titles, or any assistant or deputy registrar, that any person's name appears in any registry book kept under the Transfer of Land Act, 1893-1946, as owner of any land; or
- (iii) the Under Secretary for Lands or the Secretary for Mines, that any person is registered in the Department of Lands and Surveys, or the Department of Mines, as the 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, and on the written application of any board, signed by the secretary, a certificate giving the name and address of such owner, lessee, or occupier, the situation and description of such land, and date of registration of title, shall be furnished on payment of two shillings for each certificate.

(3) The averment in any claim, complaint, 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.

**359.** The boards of two or more districts, or the council of a municipality and board or boards of one or more adjoining districts, may at their joint expense construct and maintain in any district any work which a board is authorised by this Act to construct, and may apportion the expenditure and revenue between the respective boards, or between the respective municipality and board or boards as the case may be.

Works may be constructed by several boards, or by boards and a municipality jointly. Repealed and inserted by No. 64 of 1946, s. 18.

Every such work shall be and continue under the control of the Local Authority of the district or municipality

in which it is situated, but the by-laws relating to the same shall, before confirmation or enactment by the Governor, be submitted to the several boards and the municipality (if any) concerned.

Jurisdiction to try validity of assessment rate or order for borrowing money.

cf. S.A. Local Government Act, 1934-1936, s. 709 (e).

Inserted by No. 64 of 1946, s. 14.

**359A.** (1) A board or a ratepayer of any district or any person interested may lay a complaint and take proceedings to try the validity of any assessment, or general or loan rate or order for borrowing money affecting such district or any part thereof.

(2) Such proceedings shall be had and taken before, and be determined by, a resident or stipendiary magistrate sitting as a court of summary jurisdiction in a summary way.

*Ibid.* s. 710.

(3) The Court of summary jurisdiction may make an order quashing any such assessment, rate or order for borrowing money, which for any reason is invalid.

(4) The costs of the complaint and hearing thereof as between party and party shall be taxed by the Clerk of the Court and paid by the unsuccessful party to the successful party unless the Court for good cause otherwise orders.

*Ibid.* s. 714.

(5) No proceedings to try the validity of any such assessment, rate or loan shall be had or taken except upon complaint.

(6) Every such complaint shall be laid and every summons issued in respect thereof shall be served within four months of the striking of the rate, or within two months from the time when the resolution for the loan was passed.

Power to destroy old rate-books, etc.  
No. 38 of 1919, s. 352.

**360.** The board may destroy disused rate receipt books, bank books, cheque books, ledgers, cash books, and documents which have not been in use for upwards of seven years.

Statistics.  
No. 38 of 1919, s. 353.

**361.** The board shall, as often as required by the Registrar General, furnish such statistics and returns relating to the operations of the board in such forms and in such manner as directed.

**362.** (1) The Governor may make regulations for giving effect to this Act and prescribing the forms for use under this Act.

Regulations  
and forms.  
No. 38 of  
1919, s. 354.

(2) Strict compliance with the prescribed forms shall not be required, and substantial compliance therewith shall suffice for the purposes of this Act.

(3) Any prescribed form may be varied to suit the circumstances of the case, and no variation in any form used shall invalidate such form, provided that the substance and effect thereof is not altered.

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

Act not to  
affect rights  
of the Crown.  
No. 38 of  
1919, s. 355.

**364.** The Governor or Minister may appoint any person to make inquiry as to any matter arising in the administration of this Act, or touching any official act, omission, or neglect of any board, member of a board, or the secretary or any other officer of a board, or in regard to the operation or effect of any provision herein contained. And every such person so appointed shall for the purposes of such inquiry have the powers of a Royal Commission and the chairman thereof under the Royal Commissioners' Powers Act, 1902.

Governmental  
inquiry.  
No. 38 of  
1919, s. 356.

**365.** Where any question or matter is by this Act or any by-law or regulation made thereunder referred to arbitration, the reference shall be two arbitrators, one to be appointed by each party, and the Arbitration Act, 1895, shall apply to such reference and arbitration as if the reference were made under a written submission or agreement signed or executed by the parties.

Arbitration.  
No. 38 of  
1919, s. 357.

## SCHEDULES.

## THE FIRST SCHEDULE.

Section 3.

## ACTS REPEALED.

- The Roads Act, 1911. No. 29 of 1911.  
 The Roads Act Amendment Act, 1912. No. 66 of 1912.  
 The Roads Act Continuation Act, 1913. No. 26 of 1913.  
 The Roads Act Amendment and Continuation Act, 1915.  
 The Roads Act Continuation Act, 1916. No. 13 of 1916.  
 The Roads Act Continuation Act, 1917. No. 30 of 1917.  
 The Roads Act Continuation Act, 1918. No. 36 of 1918.

## THE SECOND SCHEDULE.

Section 208.

## BUILDING REGULATIONS.

*Surveyor.*

1. After the coming into operation of these regulations in a district or any part thereof, the board is to have a surveyor appointed and subject to dismissal by the board, with the approval of the Minister.

*Plans of buildings to be approved by Board.*

2. No block of ground shall be laid out for building unless and until a plan showing clearly the number of houses or buildings proposed to be built thereon, and the area to be occupied by each house or building, and the position of every privy and drain, and a copy of the specification, have been laid before and approved by the board; and it shall be unlawful for the board to approve of any plan which does not show that every proposed building intended to be or capable of being used as a dwelling-house will have in the rear or on one side thereof an open space, exclusively belonging thereto, of the following extent, namely, an area equal in width to the full width of that allotted to the building, and of a depth of at least twenty feet, and that the area of such building and open space will together be not less than the area for the time being fixed by proclamation as the minimum area to be allotted to any building in the locality (defined in the proclamation) in which such building is to be erected. No building shall be commenced until a plan and specification thereof shall have been laid before and approved by the board in manner aforesaid, and no building shall, without the consent of the board, be erected or constructed otherwise than in accordance with such plan or specification, and if any such plan and specification do not clearly show that the building to be erected is designed for and capable of being used for residential purposes, then such building shall not afterwards be used or adapted to be used wholly or partially for such purposes without the previous written consent of the board.

(2a) No building already erected on any land shall, in relation to its structure, be amended, altered, extended, or enlarged, and no person shall commence or proceed with the amendment, alteration, extension or enlargement of the structure of any such building unless and until a plan showing clearly the amendment, alteration, extension or enlargement proposed to be made and the area of land to be occupied by the amendment, alteration, extension or enlargement of the existing building and a copy of the specification thereof have been laid before and approved by the board.

Inserted by  
No. 64 of  
1946, s. 15.

*Notice to be given before commencing to build or alter a building.*

3. No person shall commence to build, take down, alter, add to, or repair any building, or to make an excavation, or to do any act whereby any road or way may be obstructed or rendered dangerous or inconvenient to persons passing over or near thereto, unless he shall have given three clear days' previous notice in writing to the board of his intention to commence such building or work, or do such act, and (having obtained the necessary license) shall have put up a proper hoarding or fence, to the satisfaction of the board or its surveyor, as a protection to passengers, and also a platform and handrail to serve as a footway for passengers if it shall be required by the board or its surveyor, and in such place and in such manner as the board or its surveyor directs.

*No materials to be deposited on roads without license.*

4. (1.) No person shall deposit any stones, bricks, lime, rubbish, timber, iron, or other materials, or erect any hoarding, fence, scaffold or other structure, in or on any road or way, or make any excavation on any land abutting on or adjoining or contiguous to any road or way, unless he shall first have obtained from the board or its surveyor a license in writing for that purpose, or shall, in the case of an excavation as aforesaid, have securely fenced off the same from the said road or way.

(2.) Such license shall state the purpose for which and the conditions upon which it has been granted, and the licensee shall comply with all such conditions, and the board may grant the license subject to the condition that the licensee shall erect, for the safety and convenience of the public, such hoardings or fences at such places, and of such form, character, and dimensions, and to be kept erected for such time, as to the board shall seem fit.

(3.) The board may fix, charge, and recover fees to be paid for such license.

(4.) The board may, before granting such license, require the applicant to deposit a sum sufficient in the opinion of the board or its surveyor to cover the cost of repairing any damage to any road, footpath, or kerb, or water tabling or drain; such deposit to be retained by the board until the damage (if any) is made good by the licensee, and if the work of repair is not done within such time as the board may deem reasonable, the board may do the work and deduct the cost from such deposit.

## *Road Districts.*

### *Maintenance and lighting of hoardings and fences.*

5. (1.) Every person erecting any such structure as is mentioned in regulation *three* or *four* shall keep and maintain the same, with the platform and handrail (if any) forming part thereof, standing and in good condition, to the satisfaction of the board, during such time as the board shall deem necessary for the public safety and convenience.

(2.) Every person erecting, or placing, or causing to be erected, or placed, any structure, material, or obstruction of any kind whatever on any road or way, or making or causing to be made any excavation as aforesaid—

- (a) shall cause the same to be well and sufficiently lighted every night from sunset to sunrise to prevent accidents; and
- (b) shall remove the structure, material, or obstruction and fill up any excavation, and shall repair any damage done to the road or way, within a reasonable time after being required in writing so to do by the board.

### *Penalty for disobeying preceding regulations.*

6. If any person does an act contrary to, or neglects or omits to do any act required to be done by any of the *four* last preceding regulations, such person shall incur a penalty not exceeding ten pounds for every such offence, and a further penalty not exceeding forty shillings for every day such offence continues.

*Hoardings erected and materials deposited otherwise than as permitted by license may be removed and sold. Structure may be repaired or lighted.*

7. (1.) If any person shall contravene any provision of clause *one* or *two* of regulation *four*, or clause 2 (b) of regulation *five*, then the board may—

- (a) pull down any structure erected and remove the component parts thereof;
- (b) remove any materials deposited;
- (c) fill in any excavation made;
- (d) repair any damage done to the road or way; and
- (e) order all attendant expenses to be paid to the board by such person and retain anything removed as aforesaid till any such expenses are paid.

(2.) If the said materials or component parts are not claimed and the attendant expenses paid within eight days after removal, the board may order them to be sold, and apply the net proceeds towards payment of such expenses.

(3.) If any person shall fail to keep any such structure as aforesaid, with the platform and handrail (if any) thereto in good repair, or shall not cause any such structure, material, or obstruction, as aforesaid, to be well and sufficiently lighted as required by regulation *five*, the board may repair the structure or cause the structure,

material, or obstruction to be lighted as required, as the case may be, and order all attendant expenses to be paid by such person to the board.

*Damage done to footways, drains, etc., to be made good.*

8. (1.) Any person erecting or setting up in any road or way any hoarding, or fence, or scaffolding, for any purpose whatever, and injuring or destroying any footway or roadway of any such road or way, or any kerbing, or water-tabling, or drain, shall make good the same to the satisfaction of the board or its surveyor.

(2.) In case the person to whom such hoarding, fence, or scaffold belongs, or who shall have erected the same, neglects or fails to make good and repair to the satisfaction of the board or its surveyor such footway, roadway, kerb, water-table, or drain, the board may cause such repairs to be done, and by order under the hand of the chairman or secretary, order the costs, charges, and expenses thereof, together with any such further costs, charges, and expenses as may have been incurred by reason of such neglect, to be paid by such owner or other person as aforesaid to the board.

*While building is in progress footway to be covered.*

9. (1.) Whenever any builder or other person shall have erected the first storey of any building abutting on the footpath of any road, or whenever any plastering, painting, or decorating operations are in progress above the first storey of any building, such builder, or other person, or the plasterer, painter, or decorator shall cause the adjoining footway to be covered, and kept covered to the satisfaction of the surveyor, until the completion of the work then in progress, so that no danger from falling materials, or inconvenience to the public may arise.

(2.) Every builder, plasterer, or other person neglecting to comply with the written directions of the board or its surveyor in any of the above respects shall be liable to a penalty not exceeding ten pounds.

*Materials for roofs.*

10. No roof of any house or other buildings shall be covered with any other material than slate, tiles, metal, glass, artificial stone, cement, or shingles, or other material approved of by the board.

*Ventilation of ground floors.*

11. (1.) No building intended to be or capable of being used as a dwelling-house shall be allowed to be built higher than the floor level of the ground floor, unless and until the builder shall have satisfied the board or its surveyor that such floor is so constructed or raised to such a height as to admit of a free current of air passing thereunder.

(2.) When any house, intended to be, or capable of being used as a dwelling-house or for offices, is built in a low or damp situation, the board or its surveyor may require that the space between the ground and the ground floor level shall be filled up with sand, cement, or other suitable material to such height as the board or its surveyor shall direct.

*Party walls to be of brick or stone.*

12. (1.) All partitions between separate houses or other buildings, whether such houses or other buildings shall belong to one or more owners, shall be of brick, stone, concrete, or other non-inflammable material approved by the board, and shall be carried up above the roofs of such houses or buildings to such a height and in such a manner as may be directed by any by-laws.

(2.) If any house or any building not now partitioned by such a party-wall as aforesaid shall hereafter be partially rebuilt or have the front thereof taken down, or if the said house or building shall be raised in height, then in every such case a party-wall of brick, stone, concrete, or other non-inflammable material approved by the board between such houses or buildings, and carried up to the height and in the manner aforesaid shall be built.

(3.) Every owner or builder neglecting to comply with any of the provisions of this or of the last *two* preceding regulations shall be liable to a penalty not exceeding twenty pounds; but the infliction of such penalty shall not discharge such owner or builder from his obligation to comply with such provisions.

*Obligation of adjoining owners to underpin buildings.*

13. (1.) Whenever the foundations of the basement of any building shall have been carried down to a depth of or exceeding twelve feet below the level of the adjoining footpath at the boundary of the allotment—

- (a) the owner of such building shall be exempt from liability for any underpinning that may become necessary in case any adjoining owner shall build any structure which extends to a lower level; and
- (b) it shall be the duty of the adjoining owner to protect and underpin the building of such first-mentioned owner, and such adjoining owner shall be liable to compensate the first-mentioned owner for and make good all damage that may result to him by reason of the building operations of such adjoining owner below the level of the foundations of the building of such first-mentioned owner.

(2.) Whenever the foundations of the basement of any building shall have been carried down to a depth of less than twelve feet below the level of the adjoining footpath, at the boundary of the allotment, and it becomes necessary to underpin the foundations of such building in consequence of building operations undertaken or intended to be undertaken by an adjoining owner, such adjoining owner shall give to the owner of such building and every person acting with his authority all reasonable facilities to enter upon the adjoining land for the purpose of securing such building.

(3.) Nothing in this regulation contained shall relieve the owner or adjoining owner from any liability to which he would otherwise be subject in case of injury caused by his building operations.

*Buildings, partitions, ceilings, and verandahs of inflammable materials prohibited.*

14. (1.) No building shall be erected the external walls or internal partitions or ceilings whereof shall consist either wholly or in part of inflammable material, nor shall any verandah or balcony to any house or building be roofed with inflammable material.

(2.) "Inflammable material" in this regulation includes canvas, thatch, calico, paper, and other material liable to easy ignition, but does not include wood except in the case of external walls.

(3.) If any building, partition, ceiling, verandah, or balcony is erected or constructed of material contrary to the provisions of this regulation, the board may at any time cause notice to be served upon the owner or occupier thereof, requiring the removal of the same within such time as the board may deem proper.

(4.) In default of such removal any two or more justices, upon due proof of the service of such notice, and of non-compliance therewith, may order any such building, roof, verandah, or balcony, ceiling or partition to be forthwith removed, either wholly or in part, as the case may require, by the board, at the expense and charges of the owner thereof, which, upon the order of the board in writing under the hand of the chairman or secretary, shall be paid by such owner to the board.

(5.) Provided that, notwithstanding anything in this regulation contained, the board may, in its discretion, permit by written license the erection of any such building under such restrictions or for such time as the license shall specify.

*No building to project on any footway.*

15. (1.) No building erected in any district or part thereof, after the coming into operation of these regulations in such district or part, shall encroach or project on or over any road or way, nor shall any building whatever which may so encroach or project be rebuilt either wholly or in part, except according to a plan, to be approved by the board, or its surveyor, whereby such building shall be placed clear of and without the distance defined for the breadth of such road or way.

(2.) But nothing herein contained shall prevent any person, with the consent of the board, from placing an awning or verandah in front of his building, according to plans to be settled and approved by the board, provided that such awning or verandah is eight feet, at the least, in height above the road or footway in front of such building, and, in case posts are used for the support thereof, that such posts are placed close to the kerbstone or outer edge of such footway, as the board shall direct.

(3.) Provided also, that nothing herein contained shall prevent any person with the consent of the board (after plans have been submitted to and approved by the board) from placing in front of his house a balcony, with a framework constructed of iron, and securely fixed with iron brackets or other supports, to the satisfaction of the board or its surveyor; provided that such balcony is eight feet at least

## Road Districts.

in height above the road or footway in front of such building, and, in case posts are used for the support thereof, that such posts are placed close to the kerbstone or outer edge of such footway, as the board shall direct.

*Justices may, after notice, cause encroachment to be removed.*

16. If, within one month after notice by the board to remove any building or part thereof which may encroach as aforesaid shall have been served on the owner or occupier thereof, the same shall not be accordingly removed, any two justices may grant a warrant under their hands to the board, its surveyor and assistants, forthwith to cause the said building, so far as the same shall encroach upon the road, to be taken down, and the same may be taken down accordingly and removed, and the owner or occupier shall, upon the order in writing of the board, under the hands of the chairman or secretary, pay the costs and expenses of such taking down and removal to the board. Such warrant may be granted on *ex parte* application made on behalf of the board.

*Notice by board of required alterations.*

17. The board may at any time during or after the erection of any building give notice to the builder or owner thereof, of any matter or thing in the construction of such building which tends to render such building unsafe, or prejudicial to the public interest; and thereupon such builder or owner shall pull down or so alter or add to the said building as to remove the ground of objection, unless he, with due diligence, prosecutes an appeal or brings an action under the provisions of regulation *thirty-five*.

*Chimneys of manufactories to be constructed and used so as not to be a nuisance.*

18. Every chimney shaft of any mill, manufactory or other similar building shall be of such a height, and constructed in such a manner, and shall be so used as not to cause any nuisance or annoyance to the persons dwelling in the neighbourhood thereof, and in accordance with the by-laws which may be made by the board in that behalf.

*Survey to be made of dangerous structures.*

19. (1.) When it is made known to the board that any building is in a dangerous state, the board may direct a survey of such building to be made by the surveyor, or by some other competent person.

(2.) The surveyor shall report to the board any information which he may receive with respect to any building being in a dangerous state.

(3.) Upon the completion of his survey the surveyor shall certify to the board his opinion as to the state of the building.

(4.) If the certificate is to the effect that the building is not in a dangerous state, no further proceedings shall be had in respect thereof under this or the next regulation; but if it is to the effect that the same is in a dangerous state, the board may cause the same to be

shored up or otherwise secured and a proper hoard or fence to be put up for the protection of public traffic, and shall cause notice to be served on the owner or occupier of the building requiring him forthwith to take down, secure, or repair the same, as the case requires.

*Notice to owner, etc., in case of danger.*

20. If the owner or occupier on whom the notice is served fails to comply with the notice, any two justices, on complaint by the board, may order the owner to take down, repair, or otherwise secure, to the satisfaction of the surveyor, the building or such part thereof as appears to the justices to be in a dangerous state, within a time to be fixed by the order, and if the same is not taken down, repaired, or otherwise secured within the time so limited, the board may cause the building, or so much thereof as is in a dangerous condition, to be taken down, repaired, or otherwise secured in such manner as may be requisite.

*Expenses.*

21. (1.) All costs and expenses incurred by the board in relation to the putting up of such hoarding or fence and the obtaining of any order as to a dangerous building and carrying the same into effect shall be paid by the owner or occupier of the building, but without prejudice to his right to recover the same from any person liable to the expenses of repairs.

(2.) If the owner cannot be found, or if on demand he refuses or neglects to pay such expenses, the board, after service of one month's notice of its intention so to do, may sell the materials of the building; but it shall, after deducting from the proceeds of the sale all costs and expenses incurred, and the amount of all rates then due in respect of the premises, pay the surplus (if any) to the owner on demand.

(3.) When any dangerous building is sold for payment of the costs and expenses incurred in respect thereof by the board, the purchaser, his agents and servants, may enter upon the land whereon the building is situated for the purpose of taking down the same and of removing the materials of which it is constructed.

(4.) If the materials are not sold by the board, or if the proceeds of the sale are insufficient to defray the cost and expenses, the board may recover the costs and expenses or the balance thereof from the owner of the building, together with all costs in respect thereof in a summary manner by complaint before any two justices.

*Power to remove inmates from dangerous building.*

22. When a building has been certified by the surveyor to be dangerous to its inmates, any two justices may, upon complaint by or on behalf of the board or by its surveyor against the occupier, if satisfied of the correctness of the certificate, by order direct that any inmates of such structure shall be removed therefrom by an officer of police, and they may be removed therefrom accordingly.

*Road Districts.**Removal of dilapidated and neglected buildings.*

Amended.  
No. 57 of  
1947, s. 3.

23. (1.) When a building is ruinous or so far dilapidated as thereby to have become and to be unfit for use or occupation, or is from neglect or otherwise in a structural condition prejudicial to the property in or the inhabitants of the neighbourhood, a stipendiary, police or resident magistrate, on complaint by or on behalf of the board, may order the owner to take down or repair or rebuild such building (herein referred to as a neglected building), or any part thereof, or to fence in the land upon which it stands, or any part thereof, or otherwise to put the same or any part thereof into a state of repair and good condition to the satisfaction of the board within a reasonable time to be fixed by the order.

(2.) If the order is not obeyed, the board may enter upon the building and land and execute the order.

(3.) When the order directs the taking down of a building, or any part thereof, the board in executing the order may remove the materials to a convenient place, and, unless the costs and expenses of the board in relation to such building and the obtaining of the order are paid to the board within fourteen days after such removal, sell the same.

(4.) All costs and expenses incurred by the board in relation to such a building and the obtaining of the necessary order, and also the amount of all rates then due in respect of the premises, may be deducted by the board out of the proceeds of the sale, and the surplus (if any) shall be paid by the board on demand to the owner of the building.

(5.) If such building, or some part thereof, is not taken down, and such materials are not sold by the board, or if the proceeds of the sale are insufficient to defray the costs and expenses, the board may recover the costs and expenses, or such insufficiency, from the owner of the building in a summary manner by complaint before any two justices, but without prejudice to his right to recover the same from any lessee or other person liable to the expenses of repairs.

*Fees part of expenses.*

24. All fees prescribed to be paid in respect of any dilapidated or neglected building shall be deemed to be expenses incurred by the board, and shall be recoverable as such.

*Provision for enforcing repayment of expenses incurred by Board.*

25. (1.) When the board has incurred any costs or expenses in respect of any such building as is mentioned in regulation *nineteen* or *twenty-three*, and has not been paid the same, any two justices, on complaint by the board, may make an order fixing the amount of such costs and expenses and the cost of the proceedings before them, and declaring the amount already paid (if any), and directing that no part of the land upon which such building stands or stood shall be built upon, and that no part of such building, if repaired or rebuilt, shall be let for occupation, until after payment to the board of the

said amount or the balance thereof, as the case may be; and thereafter no part of such land shall be built upon, and no part of such dangerous or neglected building so repaired or rebuilt shall be let for occupation contrary to the tenor of such order.

(2.) Every such order shall be made in duplicate; and one copy of such order shall be retained by the clerk of petty sessions and the other copy shall be kept at the office of the board.

(3.) The board shall keep a register of all orders made under the provisions of this regulation, and shall keep the same open to inspection. No property shall be affected by any such order unless and until such order is entered in such register, and any such order not entered in such register within ten days after the making thereof shall cease to be of any force.

*When board may demolish buildings and sell materials and recover expenses.*

26. (1.) When any person has been convicted of an offence against any of the provisions of these regulations, by constructing, erecting, adapting, extending, raising, altering, uniting, or separating any building, or any part of any building, in contravention of any provisions of these regulations, the board may, after giving fourteen days' notice to such person to bring such building into conformity with the said provisions, and after default has been made in complying with such notice, and notwithstanding the imposition and recovery of any penalty, cause complaint thereof to be made before two justices.

(2.) Upon the hearing of such complaint, the justices may make an order authorising the board to enter upon such building with a sufficient number of workmen, and to demolish or alter such building or any part thereof, so far as the same has been adjudged to be in contravention of these regulations, and to do whatever other acts may be necessary to bring the same into conformity with the regulations, and to remove the materials to some convenient place, and, if the board thinks fit, sell the same in such manner as they think fit.

(3.) All expenses incurred by the board in demolishing or altering such building or any part thereof, and in doing such other acts as aforesaid, together with all costs, or the balance of such expenses and costs, after deducting the proceeds of sale of the aforesaid materials, if the board think fit to sell the same, may be recovered from the person committing the offence.

(4.) If the proceeds of such sale are more than sufficient to defray such expenses and costs, the board shall pay the surplus of such proceeds, after deducting the amount of all such expenses and costs, and also the amount of all rates then due by the owner of the building, to the owner of the building on demand.

*Payment of surplus of proceeds into Treasury.*

27. When by any provision of these regulations any surplus of the proceeds of the sale of any buildings or materials is made payable to any owner thereof and no demand is made by any person entitled thereto within one year after the receipt of the proceeds by the

## *Road Districts.*

board, then the same shall be paid into the Treasury, and shall be subject to the control of the Colonial Treasurer, and be paid out to the owner on his proving his title thereto.

### *Removal of roof not to affect proceedings.*

28. Proceedings with respect to a building shall not be affected by the removal or falling in of a roof or covering of such building, or by the fact that such building has not been completed.

### *Inflammable buildings in public or other places rendered liable to removal.*

29. (1.) If it is deemed by the board to be expedient for the public safety, with a view to the prevention of fire, that any public or other place within any district shall be brought under the operation of the next following *three* regulations in order to remove all or any buildings therein, which or the external walls of which shall be constructed wholly or partially of wood, thatch, canvas, or other inflammable material, the board may, either separately or in conjunction with any insurance companies or other persons, cause any such public or other place to be surveyed by three competent surveyors or architects, of whom the surveyor to the board shall be one, another of whom shall be nominated by the Minister, and the third by the fire insurance companies effecting insurance within such district, or any of such companies, or in default of such last appointment being made within seven days after the appointment of a surveyor by the Minister, the third surveyor or architect shall be appointed by the board.

(2.) If such surveyors or architects shall unanimously report that it is desirable for the public safety that such public or other place, or any part thereof, shall be brought under the operation of the next following *three* regulations, the Governor, at the instance of the board, and on the application of three or more ratepayers, being owners or occupiers of land in any such public or other place, may declare such public or other place, or any part thereof, by notice in the *Government Gazette*, to be and the same shall thereupon become subject to the provisions of the next following *three* regulations.

### *Inflammable buildings may be ordered to be removed.*

30. When any building within any district is constructed wholly or the external walls thereof shall be constructed wholly or partially of wood, thatch, canvas, or other inflammable material, and the said building shall either internally or externally be in such a state as to be liable to immediate ignition in the event of contact with fire, the board may cause immediate notice to be given, under the hand of the chairman or secretary, to the owner or occupier of such building that such building is dangerous by reason of its liability to ignite, and requiring such building, or the portion specified in such notice as dangerous, to be removed within such time as the board shall in such notice specify.

### *Compensation to be ascertained by arbitration.*

31. The board shall be liable to pay compensation to the owner and also to the occupier (if any) of any such building for any injury to be sustained by him owing to the removal, and the amount of such compensation shall be ascertained, in case of difference, by arbitration.

*Justices may, in default of compliance with notice, order removal.*

32. (1.) In default of compliance with the notice and requisition given under regulation *thirty*, any two or more justices, on the complaint of the board, its secretary or surveyor, and on proof of the service of such notice and requisition, may order the immediate removal by the surveyor, or other persons appointed by the board, of the building or portion specified in such notice, and same shall be removed accordingly.

(2.) After such removal any party entitled shall be paid by the board, out of the ordinary revenue of the board, the compensation ascertained as aforesaid or agreed to by the board and the party, together with the costs of any arbitration, if awarded, and, if necessary the party may recover the amount thereof from the board by action.

32A. When a building intended for use as a dwelling-house has walls in which wood or other structural material is used and is in a district or portion of a district to which these regulations extend pursuant to section two hundred and eight subsection (1) of the Road Districts Act, 1919-1948, and is so dilapidated in appearance as to be out of conformity with the general standard of appearance of the other neighbouring dwelling-houses therein, a stipendiary, police or resident magistrate on complaint by or on behalf of the board may order the owner to cause the appearance of the building to conform with that general standard within a reasonable time to be fixed by the order. If the order is not obeyed, the Board may enter upon the building and land and may cause the order to be executed and may authorise all such acts and things to be done as may be necessary for that purpose, and the Board may recover from the owner, in any court of competent jurisdiction, all costs and expenses incurred.

Appearance of dwelling-house having walls in which wood or other structural material is used to conform with general standard of appearance. Inserted by No. 57 of 1947, s. 3.

*Buildings may be entered and inspected.*

33. It shall be lawful for the board or its surveyor and for any person authorised in writing by the board or its surveyor, to enter and inspect, at all reasonable times, all houses, buildings, and premises, which are subject to these regulations, and as to which any duty is thereby imposed upon, or power vested in them, or either of them, and if any person refuses to admit them or either of them to any such house, building, or premises, or impedes or obstructs them or either of them in the exercise of his or their duty, such person shall be liable to a penalty not exceeding ten pounds.

*Notices, etc., to be served.*

34. A copy of every notice, complaint, or order under regulations *nineteen to thirty-two* (both inclusive) shall be served upon every person in Western Australia who, from the registers of the Office of Titles, the Registry of Deeds, or the office of the Department of Lands and Surveys, or the Department of Mines, appears to have any estate or interest in the lands and whose address is known to the board.

*Appeal.*

35. Any builder, owner, or other person feeling aggrieved by any refusal to sanction or approve or to grant any license, or by any notice or order of the board under these regulations, may appeal therefrom to the Supreme Court or the Local Court held nearest to the office of the board by motion on notice duly given, or may bring an action at law against the board in respect of any such refusal, notice, or order, and the usual incidents of litigation shall apply to such motion or action.

No. 35 of  
1932, s. 73  
(1) (b).

Provided that there shall be no appeal under this regulation from the refusal of the board to approve a plan and specification under regulation two, but any person aggrieved by the refusal of the board to approve any such plan or specification may appeal from such refusal to the Minister, who may uphold, reverse, or vary the decision of the board, and the order of the Minister shall be binding and final.

*Fees.*

36. Subject to the approval of the Governor, the board shall have power to frame a scale of fees to be paid by any owner or builder to the board in respect of all buildings to be erected or altered, or of any order, license, matter, or thing required or permitted by these regulations.

*By-laws.*

37. (1.) The board may make by-laws with respect to the following matters (that is to say) :—

- (a) Regulating the plan and levels of sites for, and the foundations and sites of buildings.
- (b) The mode in which and the materials with which such foundations and sites are to be made, excavated, filled up, prepared, and completed.
- (c) The thickness and height and the description and quality of the substance of which walls and party walls may be constructed.
- (d) The construction and erection, size, and position of parapets, flues, and fireplaces in any building.
- (e) The height, size, and dimensions, and the lighting and ventilation of all rooms or parts of a building, but so that in the case of a building intended for use as a dwelling-house, the external walls whereof are constructed or to be constructed of wood, the height of the rooms in such building may be nine feet or more, but not less than nine feet.
- (f) The removal of any wall, party wall, parapet, flue, or fireplace erected or constructed contrary to any by-law.
- (g) Requiring the deposit and approval of the surveyor of the plans and specifications of all buildings, or alterations therein, before such construction or alteration is commenced.

No. 35 of  
1932, s. 73  
(1) (c).

- (h) The construction and protection of staircases and lift wells.
- (i) The method of draining yards and buildings, and the junction or connection of drains with other drains or sewers.
- (j) Limiting the times within which buildings must be erected and completed.
- (k) Defining areas within which it shall be unlawful to erect any building intended or suitable for use as a factory, shop, or warehouse, or to use any building as a factory, shop, or warehouse, but so that any by-law made under this power shall not prevent the erection of a building commenced at the date of the by-law, or the use of any building then already erected or partially erected which had prior to such date been in use as a factory, shop, or warehouse, or was then intended or suitable or would, if completed, have been suitable for such use as aforesaid.

No. 35 of  
1932, s. 78  
(1) (d).

(l) The numbering of houses.

(m) Generally for the carrying out of these regulations.

(2.) Such by-laws may be made to apply to the whole or any part of the district.

(3.) Any by-law may impose a penalty or maximum and minimum penalties for any breach thereof, but no such maximum penalty shall exceed twenty pounds.

*Regulations not to apply to Government buildings.*

38. All houses and buildings the property of, or occupied by, or under the control or management of, His Majesty's Government or any department or agency thereof, shall be exempt from the operation of these regulations.

*Recovery of expenses.*

39. Any expenses or moneys payable to a board hereunder or ordered by any board to be paid to it hereunder may, wherever no method of recovering the same is prescribed, be recovered by the board by complaint before two justices or in any court of competent jurisdiction.

*Costs.*

40. In any proceedings before justices under these regulations they shall have the same power of making orders for the payment of costs as they have in cases of complaints for simple offences, and such orders may, without prejudice to any method of enforcement prescribed herein, be enforced in manner set out in the Justices Act, 1902-1948.

*Rights inter se of persons interested in land not affected.*

41. Nothing in these regulations shall alter the rights *inter se* of the owner and other persons entitled to any estate or interest in any land or building affected, and if any question or doubt shall arise as to any such rights the board, or Minister, as the case may be, may

pay any amount payable to an owner hereunder into the Supreme Court in manner provided by section *forty-six* of the Trustees Act, 1900, and such amount shall be disposed of in such manner as moneys paid into Court under that section are disposed of.

*Meaning of "Owner."*

42. In these regulations the word "owner" is used in its ordinary sense, and not in the special sense prescribed in section five of this Act.

Sections 270  
and 275.

**THE THIRD SCHEDULE.**

**RULES CONCERNING ORDERS FOR POSSESSION OR SALE  
OF LAND ON WHICH RATES ARE IN ARREAR.**

1. Every application for an order for possession or sale of land shall be made by petition according to the prescribed form.
2. Any number of properties may be included in one petition or order.
3. No such application shall be made until the expiry of three months after a notice of intention to make the application has been given by the board to every person in Western Australia appearing on search in the Office of Titles or Registry of Deeds to have any estate or interest in the land.

No. 85 of  
1932, s. 73  
(2) (a).

4. In every such petition there shall be set out in respect of each piece or parcel of land—
  - (i) a description of the land;
  - (ii) the reference to the volume and folio of the title to the land if under the Transfer of Land Act, 1893-1946;
  - (iii) the name and address of every person in Western Australia appearing on search in the Office of Titles or Registry of Deeds to have any estate or interest in the land;
  - (iv) the name and address so far as known to the secretary of the board of every other person having any estate or interest in the land;
  - (v) the rates due to the board and in arrear on the said land.

5. Upon the presentation of the petition the clerk shall, subject to the direction of the magistrate, appoint a day on which the magistrate will inquire concerning the various matters mentioned in rule *four* and also whether all notices required by law to be given have been so given.

6. At least forty days before the day appointed for making the inquiries the clerk shall, at the cost of the board, publish once in the *Gazette* and in some newspaper a notice in the prescribed form stating that the petition has been presented and specifying the land affected and the time when the magistrate will make the inquiries. The clerk shall also, at the like cost, give such other notices (if any) as the magistrate may direct.

No. 35 of  
1932, s. 73  
(2) (b).

7. Any person who is an owner or ratepayer of any land proposed to be sold or taken possession of, or who is interested in the same as mortgagee or otherwise may, on filing an affidavit proving his title to attend under this rule (of the filing of which affidavit the clerk shall give the board notice), attend on the making of the inquiries; but if the magistrate shall be of opinion that there was no substantial reason for his attendance, the magistrate may order him to pay the costs occasioned thereby.

8. The magistrate is to satisfy himself as to the title of the board to the order asked for in respect of each piece or parcel of land mentioned in the petition, and if so satisfied shall make the order.

9. The magistrate shall, as far as practicable, include in his inquiries an investigation as to the various matters mentioned in section 273 or 279 of this Act (as the case may be), such investigation to be carried down to the date of the inquiry, and shall embody the result in his order.

10. After the making of the order, and before any proceedings are taken thereunder, a memorial thereof shall be registered in the Registry of Deeds if any land comprised therein is not under the Transfer of Land Act, 1893-1946, and on the title of every piece of land under the Transfer of Land Act, 1893-1946, which is comprised therein.

11. Every sale shall be conducted by the bailiff, with power nevertheless to employ an auctioneer, and after the sale the proceeds shall be paid into Court and the magistrate shall certify how the money shall be distributed, and the same shall be distributed accordingly.

No. 35 of  
1932, s. 73.  
(2) (c).

12. The provisions of sections 264, 265, and 266 of the Act shall apply to all inquiries and investigations under these rules as if the board were a plaintiff seeking to recover rates and any person opposing the board were a defendant.

13. Any board which has obtained an order for possession of land or any purchaser of land under an order for sale may apply for and obtain from the clerk a warrant of possession in the prescribed form, and the bailiff may put such board or person in possession thereunder and may do such other things as are hereby authorised.

14. The expression "rates" in this Schedule and in sections 270 to 282 (both inclusive) of this Act includes all interest, cost, charges, and expenses which are by the Act made a charge on the land, and proceedings under these rules of those sections may be taken and shall have effect in respect of such matters accordingly.

Road Districts.

15. Subject to this Act, any proceedings hereunder shall be subject to the Local Courts Act, 1904-1931, and the rules thereunder so far as applicable.

THE FOURTH SCHEDULE.

Section 276.

Form No. 1.

The Road District.

Inserted by No. 64 of 1946, s. 16.

Notice Requiring Payment of Rates under Part VI. of the Road Districts Act, 1919-1948.

The several registered proprietors or owners in fee simple, or persons appearing by the last memorial in the Office of the Registrar of Deeds to be seized of the fee simple respectively of the several pieces of land described in the fourth column of the Schedule hereto, and persons appearing in the Register Book or by memorial in the office of the Registrar of Deeds to have respectively an estate or interest in such land, and whose names appear in the first column of the said Schedule.

Take Notice that—

1. Default has been made in the payment to the board of the Road District abovenamed of a rate charged on the several pieces of land described in the fourth column of the Schedule hereto, and the said default has continued in respect of each separate piece of land since the date in the second column of the Schedule hereto set opposite the description of that piece of land;

2. The total amount owing to the said board in respect of rates and other amounts charged on each piece of land is in the third column of the Schedule hereto set opposite the description of that piece of land;

3. Payment of these amounts representing rates (or as the case may require) is hereby required; and

4. In default of payment thereof, the said several pieces of land will be offered for sale by public auction after the expiration of three months from the date hereof at a time appointed by the said board.

The pieces of land in respect of which the rates specified in the third column of the Schedule hereto are owing are those severally described in the fourth column of the said Schedule and set opposite the respective amounts so specified.

Dated the.....day of.....19....

Secretary of the Board.

*Road Districts.*

SCHEDULE HEREINBEFORE REFERRED TO.

Names of Registered Proprietors or owners, and also of all other persons having an estate or interest in the land.	Date since which the default has continued.	Amount owing, showing separately the amount owing as rates, and any other amounts owing.	Description of the several pieces of land referred to.

Section 277.

Form No. 2.

The Road Board District.

Notice Requiring Payment of Rates under Part VI. of the Road Districts Act, 1919-1948.

*Where the land is under the Transfer of Land Act, 1893-1944.*

To A.B. the registered proprietor in fee simple of the land hereinafter described, and C.D. (and E.F.), a person (or persons) appearing by the Register Book to have an estate or interest in the said land.

*Where the land is not under the Transfer of Land Act, 1893-1946.*

To A.B. the person or the person appearing by the last memorial in the Office of the Registrar of Deeds to be seized of the fee simple of the land hereinafter described, and to C.D. (and E.F.), a person (or persons) appearing by a memorial in the Office of the Registrar of Deeds to have an estate or interest in the said land.

Take notice that—

1. Default has been made in the payment to the board of the .....Road District abovenamed of a rate charged on the land hereinafter described, and the said default has continued since the.....day of.....19 (*insert date on which rate became payable*).

2. The total amount owing to the said board in respect of rates charged on the land is (*state amount in figures*) and the total amount owing to the said board in respect of other amounts charged on the land is (*state amount in figures*).

3. Payment of these amounts representing rates (or as the case may require) is hereby required; and

*Road Districts.*

4. In default in payment thereof, the said land will be offered for sale by public auction after the expiration of three months from the date hereof at a time appointed by the said board.

The land in respect of which the rates are owing is:—

(Specify the land by a sufficient description.)

Dated the.....day of.....19....

.....

Secretary of the Board.

