

# METROPOLITAN WATER AUTHORITY.

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No. 101 of 1982.

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**AN ACT to amend the Metropolitan Water Authority  
Act 1982.**

[Assented to 24 November 1982.]

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

1. (1) This Act may be cited as the *Metropolitan Water Authority Amendment Act 1982*. Short title and citation.

(2) In this Act the Metropolitan Water Authority Act 1982 is referred to as the principal Act. Act No. 36 of 1982.

(3) The principal Act as amended by this Act may be cited as the Metropolitan Water Authority Act 1982.

Commence-  
ment.

2. The provisions of this Act shall come into operation on such day or days as is or are respectively fixed by proclamation.

Section 3  
amended.

3. Section 3 of the principal Act is amended by repealing subsection (1) and substituting the following subsection—

“ (1) In this section, “the repealed provisions” means—

(a) the provisions of the Metropolitan Water Supply, Sewerage, and Drainage Act 1909-1981 repealed by the Metropolitan Water Supply, Sewerage, and Drainage Amendment Act 1982; and

(b) the provisions of the Metropolitan Water Supply, Sewerage, and Drainage Act 1909-1982 repealed by the Metropolitan Water Supply, Sewerage, and Drainage Amendment Act (No. 3) 1982. ” .

Section 4  
amended.

4. Section 4 of the principal Act is amended—

(a) in subsection (1)—

(i) by inserting, in their appropriate alphabetical positions, the following definitions—

“ “arterial drain” means an existing or proposed drain classified as such in the Arterial Drainage Scheme;

“Arterial Drainage Scheme” or “Scheme” means the scheme of that name compiled pursuant to Part IX;

“channel” includes a stream or watercourse;

“conduit” includes a pipe or culvert;

“drain” means—

(a) a conduit on or under any land; or

(b) a channel,

whether natural or constructed, which was or is used or intended to be used to carry surplus water, and includes any part of such a conduit or channel;

“drainage area” means an area declared to be a drainage area pursuant to section 104;

“drainage course” means an area declared to be a drainage course pursuant to section 106;

“drainage works” means all works for drainage purposes;

“land” includes any buildings and structures thereon;

“main drain” means a drain which is declared to be a main drain pursuant to section 100;

“officer of the Authority” means an officer appointed pursuant to section 25 and includes a reference to other persons appointed for the purposes of that section or pursuant to section 26;

“plant” includes machinery, equipment or other apparatus utilised in the provision of water services;

“premises” means any land, street, structure or other place;

“street” includes any highway, road, thoroughfare, lane, alley, square, court, place of public passage, public wharf, jetty or bridge and any private road maintained by a council;

“surplus water” means storm water, surface water or underground water which accumulates or may accumulate to the detriment or disadvantage of any person;

“underground water” means all water that is below the surface of the ground whether it is flowing or not and, if it is flowing, whether it is in a defined channel or not;

“waste” includes solid, liquid and gaseous waste;

“wastewater” means sewage and other waste, whether domestic or otherwise;

“works” means waterworks, sewerage works and drainage works, including excavation, construction, structures, buildings and plant provided by or used or intended to be used by the Authority for the purposes of water services. ” ; and

(ii) in the definition of “water services” by inserting after “1909” the following—

“ or this Act ” ; and

(b) by inserting after subsection (2) the following subsection—

“ (3) Where a provision of this Act authorises the Authority to enter upon, carry out works in, on, over or under,

or exercise any other power in relation to, any land, premises or thing the provision shall be construed as also authorising an officer of the Authority or other person acting on behalf of the Authority, together with such vehicles, vessels or plant as may be necessary for the purpose, to exercise that power for the purposes of this Act, and any reference to, or liability of, the Authority may, where the context so requires, be construed accordingly. ” .

5. Section 11 (4) of the principal Act is amended by deleting “or member of the staff”. Section 11 amended.

6. Section 12 (2) of the principal Act is amended by deleting “members of the staff” and substituting the following— Section 12 amended.

“ officers ” .

7. Section 19 of the principal Act is amended— Section 19 amended.

(a) by deleting “or the Authority” where it first occurs and substituting the following—

“ , the Authority or a person appointed pursuant to section 26 ” ;

(b) by inserting after “liable” the following—

“ in civil proceedings, ” ; and

(c) by deleting “or the Authority” where it secondly occurs and substituting the following—

“ , the Authority or that person ” .

8. Section 25 of the principal Act is amended— Section 25 amended.

(a) by inserting after the section designation “25.” the subsection designation (1); and

(b) by inserting as subsection (2) the following subsection—

“ (2) Notwithstanding subsection (1), the Authority may appoint and dismiss such temporary or casual staff as it thinks fit on such terms and conditions as the Authority determines, subject to the provisions of any current relevant award made under the Industrial Arbitration Act 1979. ” .

Section 28  
amended.

9. Section 28 of the principal Act is amended—

(a) in subsection (2)—

(i) by deleting paragraph (d) and substituting the following paragraph—

“ (d) may acquire, lease or otherwise deal in and dispose of real and personal property, either as to the whole of the interest of the grantor or by way of an estate or interest less than the estate or interest of the grantor—

(i) by agreement; or

(ii) compulsorily, under and subject to the Public Works Act 1902 and section 76; ” ;

and

(ii) in paragraph (f), by deleting “functions, exercise its powers and carry out the duties imposed on it.” and substituting the following—

“ function. ” ; and

- (b) by inserting after subsection (2) the following subsections—

“ (3) Subject to the provisions of this Act, the function of the Authority includes the duties of—

- (a) conserving, managing, preserving and distributing water for domestic and other uses;
- (b) providing reticulation or other means for the carrying and discharge of wastewater and its treatment and disposal;
- (c) formulating and implementing a scheme of arterial drainage;
- (d) constructing, controlling and managing main drains;
- (e) where practicable, ensuring the conjunctive use of water services, and of water above and below the ground;
- (f) operating, maintaining and repairing all existing works relating to water services;
- (g) providing new, additional, or supplementary works relating to water services, including, in so far as is practicable, works to extend those services to places within the Area which have not previously been served or adequately served;
- (h) providing offices, stores, warehouses, depots and other works and plant necessary for the purposes of this Act; and
- (i) conducting or promoting relevant research, compiling and providing information

relating to water services, establishing standards and criteria and methods of testing, and conducting prosecutions, for the purposes of this Act,

in and in relation to the Area.

(4) The Authority may, unless the Minister otherwise directs, supply water in bulk, or receive water in bulk, within or outside the Area.

(5) The Authority may, by agreement with, and at the expense of, the owner or occupier of any land within the Area, undertake any works related to water services.

(6) The Authority may cause any wastewater to discharge onto land acquired by, or vested in, the Authority for that purpose or to communicate with the sea or any river or water-course, subject to the requirements of any other law relating thereto. ” .

Section 29  
amended.

10. Section 29 (2) of the principal Act is amended in paragraph (a) by deleting “or member of the staff”.

Section 34  
amended.

11. Section 34 of the principal Act is amended—  
(a) by deleting subsections (11) and (13); and  
(b) by renumbering subsections (12), (14) and (15) as subsections (11), (12) and (13) respectively.

Section 39  
amended.

12. Section 39 (1) of the principal Act is amended in paragraph (f) by inserting after “recreation” the following—

“ , and not being land leased or occupied for any private purpose ” .



13. Section 41 of the principal Act is amended— Section 41  
amended.

(a) in subsection (3), by inserting after “the Authority shall” the following—

“ , subject to subsection (11), ” ;

(b) in subsection (5)—

(i) in paragraph (a), by deleting “and”;

(ii) in paragraph (b), by deleting “applied.” and substituting the following—

“ applied; but ” ; and

(iii) by adding the following paragraph—

“ (c) where an authorisation given by the Minister to the Authority under subsection (10) applies, shall have regard to subsection (12) for so long as the authorisation so applies. ” ; and

(c) by adding after subsection (9) the following subsections—

“ (10) Notwithstanding that a notice may have been published under section 21 of the Valuation of Land Act 1978 requiring the Authority to use the valuations included in a general valuation of rateable land within a valuation district for assessing any rate, where, having regard to the aggregate of the valuation districts comprised within the Area and the need to deal with the Area as a whole, the Authority is of the opinion that the information contained in the various valuation rolls of the districts available to the Authority pursuant to section 28 of that Act as at 31 March in any year is insufficient for the purpose of enabling the Authority

to obtain the comprehensive information as to the Area necessary to enable a rate for the forthcoming year to be struck on a basis of valuation for the Area different from that then shown in the rating records of the Authority the Minister, by notice published in the *Government Gazette*, may authorise the Authority—

- (a) to refrain from adopting the valuations made pursuant to a general valuation in respect of any district and instead to apply to the Area as a whole for the forthcoming rating year the valuations shown on the rating records of the Authority in respect of the then current rating year; and
- (b) to calculate a rate on the basis of those valuations as if the general valuation had not been completed,

and effect shall be given to such an authorisation by the Authority.

(11) Where a general valuation is not put into effect by reason of an authorisation given by the Minister to the Authority under subsection (10), in relation to any land to which the provisions of subsection (3) apply that subsection shall not have effect until the general valuation is put into effect by the Authority.

(12) Where any interim valuation of any land is furnished to the Authority by the Valuer-General based upon a general valuation which by reason of subsection (10) the Authority has not put into effect, in applying subsection (5) the Authority shall adopt the change by reference to a notional

valuation calculated on the basis of the general valuation which is to be applied by the Authority in relation to that land for the rating year pursuant to subsection (10).

(13) Notwithstanding that the Minister pursuant to subsection (10) authorises the Authority to refrain from adopting the valuations made in respect of a general valuation for a district—

- (a) valuations that are furnished to the Authority in respect of a general valuation pursuant to section 28 of the Valuation of Land Act 1978 shall be entered into the records of the Authority for the purpose of information and those valuations shall have effect, subject to any exercise by the Minister of the power conferred by subsection (10), in the rating year ensuing after the rating year to which the authorisation by the Minister relates;
- (b) the entry of such information in the records of the Authority shall not be taken to constitute an assessment for the purposes of paragraph (b) of section 32 (1) of that Act; and
- (c) the time within which any objection or appeal may be made to or in relation to the Authority shall be deemed not to have commenced to run until an assessment is made based on the entry.

(14) Where the Authority is of the opinion that information in relation to any general valuation in respect of a valuation district as furnished to the Authority is not complete, the Minister may direct the Authority to adopt the valuations made in respect of that general valuation in so far as they are available to the Authority, and where such a valuation is not so available in relation to any land—

(a) to refrain from levying a rate in relation to that land until the valuation of that land made under that general valuation is furnished to the Authority; or

(b) to use the valuation shown in relation to that land on the rating records of the Authority in respect of the then current rating year and to levy a rate upon that basis for the forthcoming rating year, but when a new valuation of that land under that general valuation is furnished to the Authority to adopt the new valuation and, subject to subsection (3), amend the assessment as though it were an interim valuation resulting otherwise than by reason of the general valuation, and the Authority may give effect thereto. ” .

Section 44  
amended.

14. Section 44 (3) of the principal Act is amended in paragraph (c) by deleting “metropolitan main drainage district” and substituting the following—

“ drainage area ” .

15. The principal Act is amended by inserting after section 64 the following Parts—

Parts VI,  
VII, VIII, IX  
and X  
inserted.

“ PART VI—ENTRY ONTO LAND  
BY THE AUTHORITY.

65. (1) In this Part, a reference to “a power of entry”, and cognate expressions, includes a reference to the power of the Authority to enter with workmen and other persons and any plant needed to carry out the works or perform the duties and exercise the powers necessary to achieve the purpose for which entry on the land, premises or thing affected is sought, and to occupy that land for those purposes.

The power  
of entry.

(2) Except where otherwise specifically provided by this Act entry by or on behalf of the Authority onto any land, premises or thing shall not be lawful unless—

- (a) the consent of the owner or occupier has been obtained; or
- (b) due notice under this Act or the Public Works Act 1902 has been served,

and where such a notice is served a person authorised by the Authority may, unless the owner or occupier or a person authorised by the owner or occupier objects to the exercise of that power by the Authority, lawfully enter on to any land, premises or thing not under the control or management of the Authority notwithstanding that the Authority has not obtained the consent of the owner or occupier.

(3) The exercise of a power of entry conferred by this Part shall not be taken to require the Authority to acquire any interest in any land unless—

- (a) the Authority elects to acquire the interest by agreement;

- (b) the Authority elects to take or resume an interest under and in accordance with the Public Works Act 1902, as read with section 76; or
- (c) the Authority is required to acquire an interest pursuant to section 25 of the Public Works Act 1902.

(4) A notice required by this Act to be given in relation to any entry shall specify the purpose for which entry is required and shall continue to have effect for so long as that requirement subsists, and successive entries for that purpose shall be taken to be entries to which the notice relates.

**Inspection.**

66. (1) For the purposes of this Act and any other Act administered by the Authority, the Authority may—

- (a) subject to subsection (1) of section 67, enter and re-enter at all reasonable times any land, premises or thing—
  - (i) to which water services are supplied by the Authority; or
  - (ii) in, on, over or under which any works of the Authority are lawfully situate,

for the purpose of routine inspection or routine maintenance and no notice under this Act is required unless an agreement in writing entered into by the owner or occupier of the land, premises or thing with the Authority in relation thereto otherwise provides; and

- (b) without notice, enter at all reasonable times any land, premises or thing and take such measures as may be necessary to ascertain whether any offence against this Act or the

Metropolitan Water Supply, Sewerage, and Drainage Act 1909 has been or is being committed.

(2) Notwithstanding that the powers conferred by sections 17, 82, 112 or 112A of the Public Works Act 1902 may in any particular case not be applicable, the Authority may enter upon any land where, in the opinion of the Authority, entry upon that land is necessary for the purposes of inspecting or examining the land to determine the feasibility of the use of that land for the purposes of this Act or the Metropolitan Water Supply, Sewerage, and Drainage Act 1909, or as preliminary to any prospective or intended acquisition of the land or any estate or interest in that land.

(3) Whenever the Authority, by its officers or agents, enters or has entered on or into any land, premises or thing the officer of the Authority responsible for the conduct of the entry shall, on request, produce evidence of his appointment and give particulars of the power conferred on the Authority by virtue of which the Authority claims a right of entry.

67. (1) Notwithstanding that, by reason of subsection (1) of section 66, a notice would not have been required to have been given where entry was required for the purpose of routine inspection or routine maintenance, where the Authority intends to exercise any of the powers conferred by this Part or section 78 and the purpose of entry is to carry out works that may affect the land, notice in writing of that intention shall, where practicable, be given by the Authority to the owner or occupier of the land, premises or thing to be affected not less than 48 hours before the power is to be exercised, save where this Act otherwise provides.

Notice of entry.

(2) Where the Authority enters on to any land, premises, or thing without prior notice, whether or not such notice was required under this or any other Act, for the purpose of exercising any power of the Authority to carry out works thereon then, wherever practicable, as soon as may be thereafter notice in writing of the entry and of the works carried out, and of any further intention of the Authority relating thereto, shall be given to the owner or occupier of the land affected.

(3) Where the owner of any unoccupied land, premises or thing is not within the State, or for any other sufficient reason it is not possible to give to any person, body or authority the notice required by this Act, then for the purposes of this Act the notice shall be deemed to have been given if it has been affixed or displayed on or over a conspicuous part of the land, premises or thing concerned and left so affixed or displayed for at least 48 hours.

(4) The Authority may without prior notice enter on any street under the control of a council or department and there exercise the powers conferred by section 78, but, except where entry is effected pursuant to section 68, notice pursuant to section 95 shall be given by the Authority to the council or department concerned where that section applies.

(5) A notice served pursuant to this Act for the purpose only of the exercise of the power of entry shall not be taken to have effect as a notice in relation to the taking or resumption of any land under Part II of the Public Works Act 1902.



(6) Where it is shown to the satisfaction of a Justice of the Peace that entry on or into any land, premises or thing is reasonably required by the Authority for the purpose of the exercise of a power conferred by this Act or any other Act administered by the Authority but that entry has been refused or the entry is opposed or prevented, or in any case where such land, premises or thing is unoccupied and access cannot be obtained or a notice required by this Act cannot be served without undue delay or difficulty, the Justice may, by warrant in the form prescribed by regulations made under this Act, authorise the Authority by its officers together with such other persons as are named in the warrant, or any police officer, to enter upon the land, premises or thing, using such force as may be necessary, for the purpose therein specified and any such warrant shall continue to have effect until the purpose for which it was granted has been satisfied.

(7) Where in the opinion of the Authority circumstances have arisen that may occasion undue delay in effecting entry on or into any land, premises or thing or in the carrying out of any works but the provisions of subsection (6) are not appropriate to the circumstances, the Authority may apply to the Supreme Court *ex parte* by notice of motion, notwithstanding that no cause or matter between the parties is before the Court or that no previous notice has been given to any party affected thereby, for the grant of an injunction prohibiting the persons therein specified from opposing or preventing the exercise by the Authority of its powers, or for an order directing the Authority as to the exercise of powers conferred by this Act in the circumstances specified in that order, or for both such an injunction and such an order.

Rights as to  
entry in  
emergency.

68. (1) Where it appears to the Authority, or an officer of the Authority or other person authorised pursuant to subsection (3) of section 4, that by reason of—

- (a) actual or apprehended danger or health risk to any person or in relation to any property;
- (b) the occurrence of injury, disease or damage attributable, or which might be attributable, to any defect in, or any malfunction, misuse or improper use of, the Authority's works, any property sewer or any fixture or fitting;
- (c) an urgent necessity to restore or provide water services to any place or person;
- (d) damage to or interference with water services generally; or
- (e) any other matter,

the circumstances are such that an emergency situation exists which makes compliance with the normal requirements of this Act impractical or unreasonable, then, while those circumstances subsist and for so long thereafter as is reasonably required in relation thereto, the Authority or that person may lawfully effect immediate entry on or into any land, premises or thing necessary to deal with the emergency situation, and there exercise all such powers as are by this Act conferred on the Authority or that person and are reasonably required to deal with that situation, and may in so far as is necessary use reasonable force to effect entry, without any requirement for notice or warrant and by force of this subsection.

(2) Notwithstanding that no notice is required under subsection (1), where it is practicable so to do notice of an entry effected under subsection (1) shall be given to all persons who are, or are the owners or occupiers of land which is, likely to be affected.

(3) Any question as to what is a necessary entry may be determined by the officer of the Authority or other person authorised by this section to effect or direct the entry, and any question as to what powers are reasonably required to deal with a situation to which subsection (1) refers may be determined by the person responsible for the exercise of the power, and in any proceedings arising therefrom such a determination shall be presumed, in the absence of evidence to the contrary, to have been made in good faith.

(4) The Authority or a person exercising powers pursuant to this section shall, as soon as may be, remove anything left on the land, premises or thing entered and shall make good any damage, or effect restoration, rehabilitation or restitution and section 109 has effect as though a reference in that section to the Authority included a reference to a person exercising powers pursuant to this section.

PART VII—ACQUISITION OF LAND OR INTERESTS  
IN LAND BY THE AUTHORITY.

69. For the purposes of this Part, and in the Public Works Act 1902, when construed for the purposes of this Part, a reference to “land” shall be read as extending to any land, or to any portion of any land, or to the subsoil, surface or airspace relating thereto, and to any legal or equitable estate, right, title, easement, lease, licence, privilege, or other interest, in, over, under, affecting, or in connection with that land or any portion,

Estates and  
interest in  
land.

stratum or other specified sector of that land (whether or not that interest is an interest recognized by the Common Law) the extent of which is ascertainable by reference to the documents purporting to relate thereto.

Partial  
interests in  
land.

70. (1) Where, whether by way of agreement or by way of a compulsory taking or resumption pursuant to the Public Works Act 1902, the Authority seeks to acquire an estate or interest in or relating to any land that is less than is held by the person from whom the acquisition is sought, the Authority may, subject to subsection (11) of section 76, acquire such lesser estate or interest and shall not be required to acquire the whole of the estate or interest held by that person.

(2) Where the estate or interest of the Authority is recorded on, or by way of memorial in the register relating to, the title to the land—

(a) that estate or interest shall enure for the benefit of the Authority and run with the land notwithstanding any sale, subdivision or other dealing with that land by the owner or occupier for the time being, but any such estate or interest may be relinquished by the Authority; and

(b) the benefit of any right, restriction or covenant in relation to the use of land granted to or held by the Authority may be enforced by the Authority to the like extent as if the Authority were possessed of adjacent land for the benefit of which the same was to enure.

(3) Except where the estate or interest to be acquired under this section is one of a particular kind prescribed by reference to a standard form or abbreviated description pursuant to section 71, a description sufficient

to identify that estate or interest, when that notice or document of transfer is read together with any plan or other document to which that notice or document of transfer refers, shall be set out in any notice served under the Public Works Act 1902 or in any document of transfer.

71. (1) Regulations made under this Act may, subject to the approval of the Minister administering the Transfer of Land Act 1893, make provision for the use of a standard series of forms describing the more frequently occurring particular kinds of estate or interest less than fee simple which the Authority acquires pursuant to this Act, and where the estate or interest to be acquired by the Authority is of one of the particular kinds so prescribed it may—

Conveyancing by abbreviated description.

- (a) subject to subsection (2), be described in the prescribed abbreviated manner in any transfer under the provisions of the Transfer of Land Act 1893, or in any notice served under the Public Works Act 1902, for the purposes of this Act; and
- (b) where the estate or interest is of a kind that is not required to be transferred in accordance with the provisions of the Transfer of Land Act 1893, be transferred in the prescribed manner,

by reference to the appropriate prescribed standard form.

(2) For the purposes of subparagraph (ii) of section 17 (2) (c) of the Public Works Act 1902 the copies of the notice shall be accompanied by a description of the estate or interest to be acquired and by a copy of any plan or other documents referred to in the notice.

(3) Notwithstanding that any notice may have been served or published, or any transfer effected, in the manner permitted by this section, the Registrar of Titles, the Registrar of Deeds, or the Minister for the time being administering the Land Act 1933, (as the relevant category of title may require), may by reference to the terms of the notice served on him pursuant to subparagraph (iii) of section 17 (2) (c) or of paragraph (d) of section 23 (1) of the Public Works Act 1902, or by reference to an agreement entered into by the parties in a form prescribed pursuant to this section, cause the like record to be made in the document of title or by memorial in the register relating to the title to the land in question to evidence the interest of the Authority as could have been made if the notice or transfer of agreement had been in full form.

(4) Where the Authority acquires an estate or interest in any land less than is held by the person from whom it was so acquired, then it shall be a sufficient compliance with subsection (3) and subsection (4) of section 23 of the Public Works Act 1902 if there is endorsed upon the deed, certificate, or other instrument evidencing the title to the land from which the estate or interest acquired is derived a note, whether or not by way of a prescribed abbreviated description, as to the estate or interest acquired and that deed, certificate, or other instrument returned to the person from whom it was received or to any person entitled to receive it on his behalf.

(5) The description of an estate or interest acquired pursuant to section 70 or deemed to be vested in the Authority pursuant to section 75 which the Authority does not require to be recorded on, or by way of memorial in the

register relating to, the title to the land in question may be delineated by reference to a plan other than a survey plan.

72. (1) In order to facilitate the acquisition of, or dealing with, land to be acquired for the purposes of this Act, the Authority may enter into agreements relating to incidental matters and things necessary to give effect to the powers conferred on the Authority by this Act.

Agreements  
incidental to  
land  
matters.

(2) Where the fee simple of, or any other estate or interest in, any land is vested in the Authority and the Authority at the time of the acquisition or subsequently does not require the exclusive use and occupation of that land, then the Authority may in writing grant—

- (a) a lease or licence to occupy the land or any part of the land, either exclusively or concurrently with the Authority; or
- (b) any interest in or right to use that land or any part of the land,

to any other person (subject to the provisions of subsection (3) and of section 29 of the Public Works Act 1902), and where the lease, licence or other interest or right so granted is stated in that grant as being given by way of consideration for the acquisition of the land by the Authority then that lease, licence, interest or right shall not be revoked without compensation unless the parties otherwise agree.

(3) Where the Authority exercises the powers conferred by subsection (2), then unless an agreement entered into between

the Authority and the person to whom the lease, licence, interest or right is granted otherwise provides, the grant—

- (a) shall be deemed to be subject to a condition that the Authority shall be indemnified against any costs, damages, claims, or expenses arising therefrom; and
- (b) subject to subsection (2), may be terminated without any liability for compensation thereby arising, on not less than 21 days prior written notice.

Power to  
dispose of  
land.

73. (1) Subject to subsection (2) but otherwise in accordance with the Public Works Act 1902, the Authority may sell or otherwise deal with any land, or any estate or interest in land, acquired by or vested in the Authority for the purposes of this Act and no longer required for such purposes.

(2) Where any such land, estate or interest acquired by or vested in the Authority was not acquired under this Act or any other Act by way of compulsory taking or compulsory resumption for any public work, sections 29, 29A and 29B of the Public Works Act 1902 shall not have effect in relation thereto.

Planning  
approvals.

74. For the purposes of section 20 of the Town Planning and Development Act 1928, the Authority may submit to the Town Planning Board plans of a subdivision of land acquired, or to be acquired, by the Authority notwithstanding that the Authority is not the owner of the land, and approval under that Act may be given thereto.



75. (1) Regulations made under this Act may make provision—

Regulations  
as to existing  
works.

- (a) in respect of, and appropriate to, any works or other things placed upon, in, over, or under any land by the Authority or the former Board prior to the coming into operation of this section, being works or things of a kind prescribed by those regulations, for the vesting in the Authority by force of this section and without further assurance of an estate or interest in the land upon, in, over, under, or adjacent to which the works or things were so placed, and any such estate or interest may be so prescribed and dealt with by reference to the standard series of forms that may be prescribed pursuant to section 71; and
- (b) for the recording of the interest of the Authority on, or by way of memorial in the register relating to, the title to the land in question,

and any such regulations may make provision for such restriction of the use of the land as may in the opinion of the Authority be necessary in the interest of safety or otherwise for the purposes of this Act.

(2) The vesting in the Authority of an estate or interest in any land pursuant to subsection (1) shall not be taken to authorise the Authority to place upon, in, over or under that land any works not substantially of the kind so placed at the time the estate or interest was created.

76. (1) Subject to subsection (3), the Authority shall not be liable to pay compensation for, or in respect of any damage attributable to, the placing of any works or

Claims  
against the  
Authority for  
the use of  
land and the  
application  
of the Public  
Works Act  
1902.

other things to which subsection (1) of section 79 applies or by virtue of the grant of the right of access deemed by that subsection to be vested in the Authority, nor shall the Authority be liable to pay compensation in respect of the vesting in the Authority of any estate or interest pursuant to section 75 or in respect of any restriction imposed on the use of land pursuant to that section.

(2) No claim lies against the Authority by reason only of any loss of enjoyment or amenity value, or by reason of any change in the aesthetic environment, alleged to be occasioned by the placing of works of the Authority on any land.

(3) No claim lies against the Authority by reason only of the placing of any works of the Authority upon, in, over or under any land, other than a claim—

(a) pursuant to section 109; or

(b) under the Public Works Act 1902, as read with this section, where the Authority—

(i) is by this or any other Act required; or

(ii) by reason of the nature of the works there placed, the nature of the locality in which the works are placed, the safeguarding of particular works, public safety, future development proposals, or otherwise, elects,

to acquire the land or an estate or interest in the land,

but this subsection does not affect any liability of the Authority where negligence is established for the purposes of section 110.

(4) Notwithstanding the powers conferred on the Authority by Part VI, the Authority is required to acquire, where practicable by agreement but otherwise pursuant to the Public Works Act 1902 as read with this section, such land, estate, or interest as may in the opinion of the Authority be appropriate to its needs in respect of—

- (a) major works, other than works in relation to which the Minister has directed the Authority that this subsection is not to have effect; and
- (b) such other works as may be prescribed by regulation under this Act as works to which this subsection shall apply,

and regulations made under this Act may make provision for such restriction of any use of the land thereby affected by other persons as may in the opinion of the Authority be necessary.

(5) Where for the purposes of this Act the Authority determines that any land, or any estate or interest in land, is required to be acquired by the Authority otherwise than by agreement the power to do so shall be exercised under and in accordance with, and any compensation payable by the Authority in pursuance of such powers shall be assessed, determined and recovered under the Public Works Act 1902 as read with this section.

(6) A claim for compensation made under this section may only be made once, and where any land, estate, or interest is acquired by the Authority no further claim in respect thereof shall lie against the Authority notwithstanding any subsequent works of the Authority affecting that land, estate or interest unless it is shown that the original claim paid did not take into account the nature of the damage subsequently occurring.

(7) Any entry upon, or acquisition of, land authorised by or under this Act and any works carried out pursuant to this Act shall be deemed to be for the purposes of a public work within the meaning of the Public Works Act 1902, and the Authority shall be deemed to be a local authority within the meaning of that Act authorised to effect that acquisition or undertake that public work.

(8) For the purposes of this Act, where the Authority so requires the Authority may exercise any power that is by the Public Works Act 1902 vested in the Minister responsible for the administration of that Act and in so far as that Act applies to or in relation to the compulsory taking or compulsory resumption of any land, or the entry upon, occupation or use of any land, pursuant to this Act any reference in that Act to that Minister or the Department of Public Works may be read for the purposes of this Act as a reference to the Authority and that Act may be construed accordingly.

(9) Subsection (8) does not prevent the Minister administering the Public Works Act 1902 from exercising his powers under that Act on behalf of the Authority when requested by the Authority so to do.

(10) Where the Authority fails to serve an offer on a claimant against the Authority for compensation under the Public Works Act 1902 within the time limited for that purpose by that Act, then the Minister administering that Act may serve an offer on behalf of the Authority, and such offer shall be deemed to be an offer duly made by the Authority for the purposes of that Act.

(11) A written objection served pursuant to subparagraph (i) of section 17 (2) (d) of the Public Works Act 1902 in relation to any proposed taking or resumption for the purposes of the Authority may request—

- (a) that instead of the whole estate or interest in the land being acquired, such a lesser estate or interest as is sufficient for the purposes of the Authority be acquired; or
- (b) that instead of an estate or interest less than the whole being acquired, the whole estate or interest in the land be acquired,

and the Minister, after consultation with the Authority, may direct that the proposed taking or resumption be varied accordingly.

(12) Where any land is compulsorily acquired pursuant to the Public Works Act 1902 for the purposes of the Authority under this Act or any other Act that land shall, upon publication in the *Government Gazette* of the notice referred to in subsection (1) of section 17 of the Public Works Act 1902, be vested in the Authority for the public work specified in that notice, by force of section 18 of that Act as read with this subsection, save that the Governor may, by that notice, declare that any specified estate, interest, right or privilege of any person to the use, occupation or enjoyment of the land so acquired by the Authority, or any specified part of that land, may continue for the period therein specified or until terminated by the Governor on further notice, and may provide that such continued use, occupation or enjoyment shall not be taken to be in satisfaction or part satisfaction of the compensation claimed, and effect shall be given thereto.

(13) Where, whether by agreement or compulsory acquisition, any land (including any estate or interest in land to which section 69 applies), is vested in the Authority and the land thereby affected is set apart, taken or resumed by any other person, body or authority under or by virtue of the Public Works Act 1902 then notwithstanding section 18 of that Act—

- (a) the land or the estate or interest vested in the Authority shall continue to be so vested, unless the Authority otherwise agrees; and
- (b) the Authority shall be deemed to be a person having an interest in the land, estate or interest to be taken for the purposes of section 34 of that Act.

#### PART VIII—WORKS.

##### *Division 1—Carrying out of works.*

Power to  
carry out  
works.

77. The Authority may carry out—

- (a) within or outside the Area, works for the purposes of this Act or any other Act administered by the Authority intended to provide, or which are related to, water services within the Area; and
- (b) outside the Area, such works as are requested by, and carried out at the expense of, any other person being works of a kind which, had they been carried out within the Area, could have been carried out by the Authority notwithstanding that the works are not intended to provide, and are not related to, water services within the Area.

78. (1) For the purposes of its function under this Act or its functions under any other Act administered by the Authority, the Authority, subject to Part VI, may—

Powers relating to works.

(a) enter upon any land, street, premises or thing and acquire, provide or construct—

(i) bores, reservoirs, dams, pumping stations, rising mains, water treatment plants and distributory works and such other works as in its opinion may be required for the purposes of the supply, conservation or management of water;

(ii) main and reticulation sewers, pumping stations, rising mains, ocean outlets, wastewater treatment plants and such other works as in its opinion may be required for sewerage purposes; and

(iii) drains, compensating basins, pipes, pumping stations, rising mains and such other works as in its opinion may be required for main drains or drainage purposes,

and may do all such things as may be necessary or convenient for the construction, maintenance, repair, alteration, replacement, use, discontinuance or removal of any works for the provision of water services and works ancillary to the provision of water services; and

(b) carry out such other works, including the construction of premises and the provision of facilities, as may be necessary for the purposes of this Act.

(2) Without limiting the generality of subsection (1) the Authority, for the purposes of this Act or any other Act administered by the Authority, may—

(a) exercise, within or outside the Area, the powers conferred by sections 82, 83A, 112 and 112A of the Public Works Act 1902, save that those sections shall be read and construed as though—

(i) a reference therein to the Minister administering that Act were a reference to the Authority; and

(ii) the provisions of this Act relating to entry on to land and the giving of notice had effect in substitution for the provisions of the Public Works Act 1902 relating to those matters,

and the powers conferred by those sections shall be deemed to include the power to carry out general or specific investigations, tests, borings, explorations and other surface or underground studies—

(iii) to ascertain the existence, nature and extent of water resources including ground-water resources;

(iv) to formulate schemes for the provision, extension or alteration of water services;

(v) to determine the feasibility and requirements of works or proposed works; and

(vi) to survey or demarcate land;



(b) for the purposes of this section—

- (i) drain, pump, excavate or otherwise remove any water, soil or obstruction;
- (ii) remove or use any earth, rock, trees and other things taken from any land;
- (iii) take water, soil or other samples;
- (iv) provide, remove or reconstruct buildings, pumps and other structures or plant;
- (v) open, or alter the position of, any pipe, sewer, drain, tunnel, wire or other fitting or apparatus within or under any land, including any street or premises; or
- (vi) remove, or make a gate in, or erect, any fence (taking all reasonable steps to notify the owner and occupier of the land on which, or on the boundary of which, the fence is, or is to be, erected).

(3) In the exercise of the powers conferred by this section the Authority shall ensure that so far as is reasonable and practicable—

- (a) the free use of any land, street or premises is not obstructed; and
- (b) as little detriment or inconvenience is caused and as little damage is done as is possible,

and section 109 applies in respect of damage thereby occasioned.

Property in  
works.

79. (1) Where the Authority places or has placed, or causes or permits or has caused or permitted any works or other things to be placed upon, in, over or under any land in the exercise or purported exercise of a power conferred by this Act or the repealed provisions, those works or other things shall be taken to have been lawfully so placed and are, and shall at all times continue to be, the property of the Authority, unless the Authority has otherwise agreed or may otherwise determine, and the Authority shall be deemed to have a right of access thereto for the purposes of this Act and any other Act administered by the Authority.

(2) The Authority may remove from, or demolish or destroy on, any land which is or has been occupied by the Authority, any plant, buildings, road, or other works placed or caused to be placed thereon by the Authority or by permission of the Authority.

(3) In this section, a reference to the Authority includes a reference to the former Board.

Council  
works  
constructed  
with  
borrowed  
money.

80. (1) Notwithstanding that—

- (a) any water works and works relating to the procuring of a water supply;
- (b) any sewers and works connected with sewerage; and
- (c) any drains and works connected with drainage,

have been constructed with money borrowed by a council under Division 2 or 3 of Part XXVI of the Local Government Act 1960, the Authority may purchase from the council any works so constructed.

(2) Any works purchased by the Authority from a council pursuant to this section—

- (a) shall be acquired on such terms and conditions as the Authority and the council, having regard to the terms and conditions upon which the money referred to in subsection (1) of this section was borrowed, agree upon and of which the Minister approves in writing;
- (b) shall vest in and be the property of the Authority; and
- (c) shall be subject to the provisions of this Act as though they had been constructed or procured under the authority of this Act.

*Division 2—Preliminaries to Works.*

*Subdivision A—Interpretation.*

81. In this Part and in Part VII—

Interpreta-  
tion.

“exempt works” means—

- (a) the maintenance, repair, minor alteration, reinstatement or replacement of existing works;
- (b) the construction or provision of other works—
  - (i) not being major or general works; and
  - (ii) being works in, on, under or over private land, which are constructed or provided on, and at the request of, the owner of the land served or to be served by the water services in respect of which the works are required; and

- (c) alterations, extensions or additions to major works where section 86 does not apply;

“general works” means the construction or provision of—

- (a) trunk and distribution water mains, pumping stations, rising mains, control and metering stations, main and branch sewers, main drains, compensating basins, and water and sewerage reticulation mains being reticulation mains not constructed at the request of the owner of the land affected;

- (b) such other works of a kind similar to the works referred to in paragraph (a) of this definition as the Governor may, from time to time by Order in Council published in the *Government Gazette*, declare to be general works;

and

- (c) works in, on, under or over private land, other than exempt works;

“major works” means the construction or provision of—

- (a) dams, service reservoirs, bulk water storage facilities, groundwater schemes, wastewater treatment plants, or water treatment plants; and

(b) such other works as the Minister—

(i) considers, by virtue of their location, size or nature, to be of sufficient public interest to require public advertisement and that an opportunity to object or comment thereon should be given; and

(ii) directs the Authority, either generally or in a specific case, to treat as major works.

*Subdivision B—Major Works.*

82. The Authority may carry out, or undertake the construction or provision of, major works, if the Authority has complied with sections 83 and 84 and the Minister has thereupon authorised the carrying out of such works and a notice of such authorisation has been published in the *Government Gazette*, but not otherwise.

Power to carry out major works.

83. (1) The Authority shall, before submitting proposals to the Minister for the carrying out, construction or provision of major works—

Advertisements and notices.

(a) cause to be prepared plans of the area affected together with the current proposals for the works, and cause those plans and proposals, or certified copies, to be deposited in the office of the Authority;

(b) cause an advertisement to be published in the *Government Gazette*, and in one or more newspapers generally circulating in the locality in which the proposed works are to be situate, specifying—

(i) a description of the proposed works;

(ii) the localities in which they will be situate;

(iii) the purposes for which they are required; and

(iv) the times when, and places at which, the plans and proposals may be inspected; and

(c) cause a notice specifying the details referred to in paragraph (b) of this subsection to be served on—

(i) the owner and occupier of any land which is to be entered for the purposes of the proposed works or which is, in the opinion of the Authority, likely to be affected; and

(ii) any council in the area of which the proposed works will be situate or which, in the opinion of the Authority, has a material interest in the proposal or the services to be provided by the works.

(2) The plans and proposals referred to in subsection (1) shall be open to inspection by any person interested, at the times and places specified in the advertisement.

84. (1) Any council or person interested may, in writing, object to or comment on the carrying out, construction or provision of proposed major works.

Objections  
and  
comments.

(2) Every such objection or comment shall be lodged with the Authority within one month from the date of the publication of the advertisement referred to in subsection (1) of section 83.

(3) Where the Authority so determines, and whether or not by reason of objections or comments received, the Authority may amend the proposal by making alterations to the plans or proposals so deposited and advise the persons who are, in the opinion of the Authority, likely to be affected by such alterations, but when submitting the proposal to the Minister for authorisation shall indicate the nature and extent of the alterations effected.

85. (1) Where the Authority considers that the requirements of sections 83 and 84 have been complied with and that the objections or comments, if any, have been met by amendment of the proposals or are, in the general public interest, not such as to cause the proposals to be amended, the Authority shall submit the final proposal to the Minister and shall furnish to the Minister such plans, description, specifications, estimates or other information as the Minister may require relating thereto.

Submission  
for  
authorisa-  
tion.

(2) The Authority shall prepare a report to the Minister on—

- (a) the original proposal;
  - (b) any amendment to that original proposal and the persons who have been advised of the final proposal;
- and

- (c) the final proposal, and any interest, objection or comment not met by the final proposal,

and the Minister shall have regard to that report and any recommendations contained therein and after considering the matter the Minister may—

- (d) direct that any amended proposal shall be re-advertised;
- (e) direct that further or other notices be served in respect of the proposal;
- (f) authorise the carrying out, construction, or provision of the proposed major works; or
- (g) decline to authorise the proposed major works.

Alteration  
or extension  
of major  
works.

86. (1) Where the Authority proposes substantially to alter or extend any major works it shall notify the Minister of the proposal and shall furnish to the Minister such plans, description, specifications, estimates or other information as the Minister may require relating thereto.

(2) After considering the proposal the Minister may—

- (a) direct that the procedures set forth in sections 83, 84 and 85, or such procedures as are specified by the Minister, be carried out in relation to the alteration or extension as if the proposed alteration or extension were a proposal for the initial provision of major works;



- (b) authorise the proposed extension or alteration; or
- (c) decline to authorise the proposed extension or alteration.

(3) In considering a proposal notified to him under subsection (1) the Minister may have regard to any earlier proposal relating to the same or like works and any earlier objections or comments received by the Authority relating to that proposal.

*Subdivision C—General Works.*

87. The Authority may carry out, or undertake the construction or provision of, general works, if the Authority has complied with sections 88, 89 and 90, but not otherwise.

Power to carry out general works.

88. (1) The Authority shall—

Notices.

- (a) cause to be prepared plans and a description of proposed general works and cause those plans and that description, or certified copies, to be deposited in the office of the Authority; and
- (b) cause a notice, and an extract or illustration of the plans and a copy of the description referred to in paragraph (a) of this subsection sufficient to indicate the nature and extent of the proposed general works, to be served on—
  - (i) the owner and the occupier of any land which is to be entered for the purposes of the proposed works or is, or the use of which is, in the opinion of the Authority, likely to be adversely affected; and

- (ii) any council in the area of which the proposed works will be situate or which, in the opinion of the Authority, has a material interest in the proposal or the services to be provided by the works,

specifying the details set forth in subparagraphs (i), (ii), (iii) and (iv) of section 83 (1) (b) and nominating a date, which shall be a date not earlier than 7 days after service of the notice, by which all objections to, or comments upon, the proposal must be received by the Authority.

(2) The plans and description referred to in subsection (1) shall be made available by the Authority for inspection by any person or council upon whom or which a notice has been served pursuant to paragraph (b) of subsection (1), at the times and places specified in the notice.

Objections  
and  
comments.

89. (1) Any person or council upon whom or which notice has been served pursuant to section 88 may, in writing, object to or comment upon the carrying out, construction or provision of the proposed works.

(2) Every such objection or comment shall be lodged with the Authority by the date specified in the notice.

(3) Where the Authority so determines, and whether or not by reason of objections or comments received, the Authority may amend the proposal by making alterations to the plans or description so deposited, whether to meet objections or comments or otherwise, but shall advise the persons who are, in the opinion of the Authority, likely to be adversely affected by such alterations.

90. (1) Where—

Authorisa-  
tion for  
general  
works.

(a) the Authority has complied with the requirements of sections 88 and 89 and—

(i) no objections or comments have been received by the time specified in the notices served pursuant to subsection (1) of section 88; or

(ii) any objection or comment material to the proposal has been met; and

(b) the Authority does not require the authorisation of the Minister to a deviation from the plan pursuant to subsection (4) of section 92,

the Authority is authorised to proceed to carry out, construct or provide the general works.

(2) Subject to subsection (1), where the Authority considers that the requirements of sections 88 and 89 have been complied with but that objections or comments material to the proposal have not been met by amendment of the proposal, the Authority shall submit the proposal to the Minister informing him of the original proposal and, if it has been altered, the manner in which it has been altered and shall furnish to the Minister such plans, description, specifications, estimates or other information as the Minister may require relating thereto.

(3) Any question as to whether or not an interest, objection or comment is material to a proposal may be determined by the Authority.

(4) After considering the proposal submitted to him pursuant to subsection (2) the Minister may—

- (a) authorise the carrying out, construction or provision of the proposed general works; or
- (b) decline to authorise the proposed general works.

*Subdivision D—Exempt Works.*

Authority  
to carry  
out exempt  
works.

91. Exempt works may be carried out, undertaken, constructed or provided by or on behalf of the Authority without any requirement for notification or advertisement of those works.

*Subdivision E—Deviation and Modification.*

Deviation  
and  
modification.

92. (1) Where the Authority is of the opinion that any deviation from the proposed line of works may be necessary, the Authority may, in preparing the plans of the proposed works pursuant to section 83 or section 88, show on the plans a limit within which the line of works as constructed may deviate to accommodate changes in location not inconsistent with the general proposal and any such deviation shall be taken to be authorised.

(2) Whether or not a limit within which the line of works may deviate during construction is shown on the plans, the Authority in carrying out the work may deviate not more than 20 metres from the location shown on the plan if—

- (a) the change is of a nature not inconsistent with the general proposal; and
- (b) the deviation is agreed in writing by the owner and occupier of the affected land.

(3) The Authority may, during the carrying out, construction or provision of works, depart from any description, proposal or plan published, and may make such modifications as are required by the circumstances, if the departure is agreed in writing by the owner and occupier of the affected land.

(4) Where the Minister is satisfied that a deviation or modification of a kind to which subsection (1), subsection (2) or subsection (3) does not apply is not inconsistent with the general proposal, is necessary in the public interest, and does not adversely affect the interest of any person who is the owner or occupier of the land where the works are to be situate, he may authorise the carrying out of the proposal as so varied notwithstanding that the provisions of—

(a) sections 83, 84 and 85; or

(b) sections 88, 89 and 90,

as the case requires, have not been complied with in relation thereto.

*Division 3—Street Works.*

93. Subject to section 94, where the Authority considers it necessary at any time to alter the position of any pipes, wires or other fittings or apparatus which are laid on, in, over or under any street and are under the control or management of any person, council or department then the Authority may by notice in writing request any such person, council or department concerned to effect the alterations in such manner and within such reasonable time as is specified in that notice, and—

Alterations  
to fittings  
in streets.

(a) where that notice is complied with, the reasonable expenses incurred by that person, council or department attendant upon or connected with those alterations shall be repayable by the Authority; but

- (b) where that notice is not complied with, the Authority may at its own cost cause such alterations to be made to those works as are required by the Authority.

Street  
levels and  
widths.

94. (1) Where the Authority proposes to place any works in any street, the council or department responsible for determining the level of that street shall, within 10 days of the service of a written request from the Authority or within such extended time as the Authority at the request of the council or department may allow, furnish the Authority with particulars of any ascertained or proposed levels, or method of surfacing, of that street, and in default of the furnishing of those particulars the existing contour of the street shall for the purposes of the Authority relating to those works be deemed to be the level.

(2) A council or department having the control and management of any street shall give the Authority at least 10 clear days notice in writing of its intention to change the level, width or surfacing of any street in which any works of the Authority have been placed.

(3) The Authority may, within the period of notice referred to in subsection (2) or within such extended period as the council or department, at the request of the Authority, may allow, give notice to the council or department specifying—

- (a) whether the Authority intends to raise, lower or otherwise alter the position or alignment of any works of the Authority in a street the level, width or surfacing of which is to be changed; and

- (b) the time by which the Authority estimates the work will have been carried out.

(4) Where the notice required by subsection (2) is given the cost to the Authority of doing the work referred to in a notice pursuant to subsection (3) shall be a debt due to the Authority by the council or department having the control and management of that street only in so far as the works carried out by the Authority were attendant upon or connected with that change.

(5) Where the notice required by subsection (2) is not given, the council or department concerned shall be liable to make full compensation for, or otherwise indemnify the Authority against, any loss, damage or costs arising from or in relation to any such change.

95. The Authority shall not open or break up the surface of any street, where a major obstruction of the street or dislocation of traffic will be caused thereby, unless the Authority—

Breaking up of streets.

- (a) has given to the council or department having the control and management of the street not less than 48 hours notice of its intention;

or

- (b) is of the opinion that the circumstances are such that an emergency situation exists.

96. Where the Authority opens or breaks up the surface of any street or pavement the Authority shall—

Streets broken up to be reinstated.

- (a) with all convenient speed complete the work for which it is broken up and fill in the ground, and reinstate

and make good or cause to be reinstated or made good that surface;

and

- (b) while any portion of the surface of the street or pavement continues to be opened or broken up, cause that portion of the street or pavement to be clearly marked with warning notices or otherwise guarded and a sufficient light to be kept there at night.

*Division 4—Provision of Information.*

Records and  
plans of the  
Area.

97. (1) The Authority shall cause to be kept records or plans of the Area, in such form, and with such particulars of mains, sewers, drains and other works, as the Authority may think expedient, and shall cause those records or plans to be from time to time revised, and such additions made thereto as will show such works as exist from time to time.

(2) Records may be kept or prepared by recording or storing the matters concerned by means of a mechanical, electronic or other device.

(3) The records and plans shall, during the office hours of the Authority, be open to the inspection of any interested person who may, where the records have been stored by means of a mechanical, electronic or other device, request that the information be compiled and be available to be inspected by him in the form of a plan.

(4) A copy of the records or plans, or an extract therefrom, shall be supplied by the Authority upon payment of the prescribed fee.



PART IX—DRAINAGE.

*Division 1—Arterial Drainage Scheme.*

98. (1) The Authority is charged with ensuring that a scheme is compiled, to be known as the Arterial Drainage Scheme, whereby practical and economic provision is made, by, on behalf of, or in consultation with, the Authority for the planning, managing, maintaining, financing, extending and improving of drainage services to serve the Area. The Scheme.

(2) The Authority shall prepare, and from time to time review and amend, plans which together will ultimately illustrate the Arterial Drainage Scheme in such a manner as to show—

- (a) drainage catchments;
- (b) lakes, swamps, wetlands, water-courses and other features related to natural drainage;
- (c) areas of existing, proposed or potential development;
- (d) the existing drainage system—differentiating as to the kinds of drainage;
- (e) the proposed drainage system—differentiating as to the proposed kinds of drainage and the persons or bodies to be liable for the provision and maintenance of that drainage;
- (f) land which, in the opinion of the Authority—
  - (i) benefits from drainage; and
  - (ii) contributes to the need for drainage; and

(g) drainage areas and areas likely to be proclaimed as drainage areas.

(3) The Arterial Drainage Scheme shall make provision for—

- (a) arterial drains;
- (b) main drains;
- (c) drainage areas; and
- (d) drainage courses,

and may make provision for utilising the potential of the Scheme to conserve water, to re-charge aquifers, or in any other manner, in the best interests of the community and for the management of the natural environment.

(4) In planning and implementing the Scheme the Authority shall consult and collaborate with the councils, the districts of which are affected, and, in so far as that is practicable, shall consult with the respective authorities or bodies having responsibility for health, planning, roads, railways, conservation and environmental protection, and waterways, having regard to their statutory duties and practical requirements.

(5) The Arterial Drainage Scheme shall take into account environmental, conservation and management considerations, and the financial implications as to the provision and maintenance of works and be prepared in such a manner as to ultimately make provision for the division of responsibilities, by agreement, as between the Authority, local authorities and other persons.

*Division 2—Arterial Drains.*

99. (1) The Authority has responsibility for the over-all administration of the system of arterial drainage and of arterial drainage works comprised within the Scheme, notwithstanding that the control, management and care of any particular arterial drain or any portion thereof, or responsibility for particular works may for the time being be vested in some other person or body.

Management  
of arterial  
drains.

(2) A main drain may be, or comprise a portion of, an arterial drain.

(3) This Act does not vest in the Authority the control, management or care of an arterial drain or proposed arterial drain, not being a main drain, other than in a case where—

- (a) the person or body having control, management and care so agrees; or
- (b) the Authority acquires the land or a relevant partial interest in the land, on which the drain is, or is to be, situated.

(4) The Authority shall—

- (a) determine what drains shall be designated arterial drains, and what proposed drains should be designated as arterial drains, and assign names to them respectively;
- (b) delineate the point of commencement, route and point of termination of arterial drains on a specified plan or plans;
- (c) indicate the nature and size of the arterial drains;

- (d) notify in writing, accompanied by a copy of a relevant plan, each local authority in the district of which an arterial drain or proposed arterial drain is, or is to be, situated of the designation of that drain as an arterial drain;
- (e) invite submissions from the local authorities affected within such reasonable time as is specified in the notice of designation, and report thereon to the Minister; and
- (f) review, and, as may be necessary, amend from time to time the designations made.

(5) In so far as the course of an arterial drain or proposed arterial drain may traverse the district of more than one local authority, and may affect the community or the environment, the Authority shall endeavour to evolve and co-ordinate measures to ensure the most practicable manner of control, management and care of the drain within the concept of an integrated scheme of drainage.

*Division 3—Main Drains.*

Declaration  
of main  
drains.

100. (1) The Authority has the control and management of main drains and main drainage works, and shall cause all main drains and main drainage works to be constructed, maintained, kept and cleansed with due regard to the health and convenience of the public.

(2) The Authority, subject to this section, may declare to be a main drain—

- (a) any existing drain; or
- (b) any drain which the Authority proposes shall be provided.

(3) Any metropolitan main drain constituted pursuant to section 71C of the Metropolitan Water Supply, Sewerage, and Drainage Act 1909 as in force prior to the coming into operation of section 31 of the Metropolitan Water Supply, Sewerage, and Drainage Amendment Act (No. 3) 1982 shall be deemed to have been declared to be a main drain pursuant to this section.

(4) Where the Authority declares to be a main drain any existing channel or existing conduit which prior to the time of that declaration was vested in or under the control of a local authority or other person, that local authority or person is not thereby entitled to compensation from the Authority or the Crown.

(5) A drain, not being a drain to which subsection (3) applies, shall not be declared to be a main drain unless—

(a) it is comprised within—

- (i) a drainage course;
- (ii) a natural watercourse;
- (iii) a road reserve;
- (iv) a reserve for the purposes of drainage which is vested in the Authority; or
- (v) a drainage easement granted to the Authority; or

(b) the owner and occupier of the land on which it is situate—

- (i) agree in writing to such declaration; or

- (ii) are given notice by the Authority of its intention to acquire an interest in the land pursuant to Part VII.

(6) Where the Authority proposes that any drain should be declared to be a main drain the Authority shall—

- (a) assign a name to the drain;
- (b) determine the point of commencement, the route and point of termination of the drain, any relevant drainage course, and in so far as the land is not already a declared drainage area the land which will—

- (i) benefit from the proposed drainage; or

- (ii) contribute to the need for the proposed drainage,

and delineate them on a specified plan;

- (c) cause to be published in the *Government Gazette* a notice—

- (i) declaring that as from a date, being a date not earlier than 2 months after the publication of the notice, specified in the notice the drain described in the notice shall be a main drain known by the name assigned in the notice;

- (ii) containing a description of the drain, indicating the nature and size of the drain, and of any relevant drainage course sufficient to identify its boundaries; and

- (iii) specifying the plan prepared for the purposes of paragraph (b) of this subsection and stating where it may be inspected,

and effect shall be given to that declaration unless the Minister otherwise directs.

(7) The Authority may, by subsequent notice published in the *Government Gazette* in the manner required by subsection (6), vary any declaration made or deemed to have been made pursuant to this section.

(8) The Authority may, by notice published in the *Government Gazette*, cancel any declaration made or deemed to have been made pursuant to this section in relation to a drain or any portion of a drain and thereupon that drain, or that portion of that drain specified in that notice, shall cease to be a main drain, but notwithstanding that any drain or any portion of any drain ceases to be a main drain any drainage area which was served thereby shall continue to be a drainage area unless the notice otherwise provides.

(9) A person who is aggrieved by a proposal to declare a drain to be a main drain or to vary any such declaration, or who alleges that any land is not land which will—

- (a) benefit from; or
- (b) contribute to the need for,

a proposed main drain as delineated on the plan, may by notice in writing to the Minister within one month of the publication of the notice published under subsection (6), or subsection (7) as the case requires, object to the proposal.

Offences.

101. (1) A person shall not, without the prior consent in writing of the Authority—

- (a) erect, construct or place any building, wall, fence, structure or obstruction upon, over, under or within the prescribed proximity to, a main drain otherwise than in accordance with such terms and conditions as the Authority may have imposed for the protection of the main drain from interference or damage;
- (b) stop, obstruct, alter, damage, or interfere with, a main drain;
- (c) cause or permit any sediment, noisome thing or pollutant to enter a main drain; or
- (d) cause or permit water to be taken from a main drain.

Penalty: \$1 000 and if the offence is a continuing one a further \$100 for each day or part of a day during which the offence has continued.

(2) The Authority may demolish and remove any building, wall, fence, structure or obstruction which is erected, constructed or placed in contravention of subsection (1) and which interferes with or injuriously affects a main drain and perform any works necessary for restoring or reinstating the main drain.

(3) In addition to any penalty that may be imposed on an offender under subsection (1), the offender shall also pay to the Authority any expense incurred by or on behalf of the Authority in removing any building, wall, fence, structure or obstruction or in re-opening, restoring, repairing or reinstating a main drain pursuant to subsection (2).



102. (1) A person shall not—

Connections  
to main  
drains.

- (a) otherwise than in the prescribed manner, unless authorised by the Authority;
- (b) otherwise than in accordance with an authorisation of the Authority; or
- (c) without the authorisation of the Authority,

connect to a main drain any other drain, conduit or fitting.

(2) A person shall not, without or otherwise than in accordance with an authorisation by the Authority, disconnect from a main drain any other drain, conduit or fitting.

(3) A person shall not fail to maintain a drain, conduit or fitting connected to a main drain, so as to cause or permit the escape, misuse or contamination of water.

Penalty: \$200 and if the offence is a continuing one a further \$20 for each day or part of a day during which the offence has continued.

(4) A person intending to connect to, or disconnect from, a main drain any other drain, conduit or fitting shall give notice in writing of the proposed works to the Authority not less than 30 days prior to the commencement of the works.

(5) The Authority shall consider any notice given pursuant to subsection (4) as soon as practicable, and within 30 days from the giving of the notice the Authority shall give written notice to the person proposing to do the works—

- (a) authorising the proposed works;

- (b) declining to authorise the proposed works; or
- (c) delaying consideration of the proposed works until a time, or the occurrence of an event, specified in the notice.

(6) An authorisation given by the Authority pursuant to this section may be made subject to conditions, including conditions as to the payment of prescribed charges, and may require that the applicant or some other person enter into an agreement with the Authority under section 38 with regard to the cost of works or water services provided or to be provided by the Authority by reason of or in relation to the proposal.

*Division 4—Drainage Areas.*

Drainage  
areas.

103. The Authority, having regard to the land to be served and to any other land which may be affected, may, where drainage services are to be or are being provided, recommend to the Minister that any area of land, or any part of such an area, served by a main drain or to be served by a proposed main drain and which, in the opinion of the Authority, benefits or will benefit from, or contributes or will contribute to the need for, the drainage, should be declared to be a drainage area to which paragraph (c) of section 44 (3) should apply.

Declaration  
of a  
drainage  
area.

104. (1) The Minister may from time to time declare an area of land to be a drainage area.

(2) Where the Minister proposes that an area of land should be declared to be a drainage area the Minister shall—

- (a) assign a name to the area of land;

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- (b) delineate the area of land on a specified plan;
- (c) cause to be published in the *Government Gazette* a notice—
  - (i) declaring that as from a date, being a date not earlier than 2 months after the publication of the notice, specified in the notice the area of land described in the notice shall be a drainage area known by the name assigned in the notice;
  - (ii) containing a description of the area of land sufficient to identify its location; and
  - (iii) specifying the plan on which the area of land is delineated and stating where it may be inspected,

and effect shall be given to that declaration unless the Minister otherwise directs.

(3) The Minister may, by subsequent notice published in the *Government Gazette* in the manner required by subsection (2), alter the boundaries of, or abolish, any drainage area made or deemed to have been made pursuant to this section.

(4) A person who is aggrieved by a proposal to declare an area of land to be a drainage area or to alter the boundaries of a drainage area, or who alleges that any land is not land which will—

- (a) benefit from; or

(b) contribute to the need for,

the main drain or proposed main drain as delineated on the plan of the proposed drainage area, may by notice in writing to the Minister within one month of the publication of the notice published under subsection (2) or subsection (3), as the case requires, object to the proposal.

(5) The Minister shall have regard to any objection notified to him pursuant to subsection (9) of section 100 as though it were an objection of which he has received notice in accordance with subsection (4).

(6) A local drainage area constituted pursuant to section 71E of the Metropolitan Water Supply, Sewerage, and Drainage Act 1909 as in force prior to the coming into operation of section 31 of the Metropolitan Water Supply, Sewerage, and Drainage Amendment Act (No. 3) 1982 shall be deemed to have been declared to be a drainage area pursuant to this section.

(7) A metropolitan main drainage district constituted pursuant to section 6 of the Metropolitan Water Supply, Sewerage, and Drainage Act 1909 as in force prior to the coming into operation of section 5 of the Metropolitan Water Supply, Sewerage, and Drainage Amendment Act (No. 3) 1982 shall be deemed to have been declared a drainage area pursuant to this section and in relation to that area the Authority may determine that it be divided into 2 or more drainage areas, and subsection (2) shall be taken to apply to each of the respective areas as so divided as though the determination was a proposal to declare the area a drainage area but subsection (4) shall not apply.

105. Where any land, whether or not in a drainage area, in the opinion of the Authority, benefits or is likely to benefit from, or contribute to the need for, a main drain or a proposed main drain, the Authority may serve a notice under section 38 requiring the owner or occupier to enter into an agreement with the Authority with regard to the provision of works or water services which in the opinion of the Authority it is or will be necessary to provide for drainage purposes.

Agreements  
for the  
provision of  
drainage  
works.

*Division 5—Drainage Courses.*

106. (1) In relation to any main drain or arterial drain, or proposed main drain or proposed arterial drain, the Authority may determine that an area of land sufficient to contain the drainage works should be declared to be a drainage course.

Declaration  
of a drainage  
course.

(2) On determining the point of commencement, route, extent, dimensions, and point of termination of a proposed drainage course and assigning a name to it, the Authority shall cause the lands comprising the drainage course, in sufficient detail to enable the boundaries to be ascertained, to be delineated on a specified plan and shall—

- (a) serve notice in writing, accompanied by a copy of or relevant extract from that specified plan, to be served on each local authority in the district of which the course is, or is to be, situated and (so far as is practicable) on each person who is an owner or is an occupier of land within the boundaries of that drainage course, of the proposal providing that objections and submissions in relation thereto may be made to the Authority within one month from the date of service of the notice;

- (b) cause an advertisement to be published in a newspaper circulating in the area affected by the proposal specifying the proposal in general terms and indicating in what manner and the times when, and places at which, further particulars can be ascertained, and, upon request, furnish those particulars;
- (c) so far as is practicable, negotiate with any local authority or person making an objection or submission, and modify the proposal accordingly; and
- (d) report to the Minister as to the proposal, any negotiations, and any objections or submissions not met by the proposal or modified proposal.

(3) Subject to the approval of the Minister, the Authority shall cause to be published in the *Government Gazette* a notice—

- (a) declaring that as from the date specified in the notice the land within the boundaries described or referred to in the notice shall be a drainage course known by the name assigned in the notice;
- (b) containing a description of the boundaries sufficient to identify them or referring to descriptions whereby they can be ascertained; and
- (c) specifying the plan on which the lands are delineated and stating where it may be inspected,

and effect shall be given to that declaration unless the Minister otherwise directs.

(4) Subject to the approval of the Minister the Authority may, by subsequent notice published in the *Government Gazette* in the manner required by subsection (3), vary any declaration made pursuant to this section.

(5) The Authority may, by notice published in the *Government Gazette*, cancel any declaration made pursuant to this section in relation to any lands and thereupon the lands specified in that notice shall cease to be comprised within a drainage course.

(6) The declaration of a drainage course—

(a) shall be taken to be notice of the intention of the Authority that the land is liable to be utilised for drainage works; but

(b) does not thereby entitle any person to compensation from the Authority or the Crown.

107. (1) When a drainage course has been declared pursuant to section 106 the land comprised within the drainage course shall be taken for the purposes of Part III to be land to which the Authority proposes to provide water services.

Development  
in drainage  
courses.

(2) The Authority may inform a planning authority of the existence of a drainage course and may give advice and issue guidelines to the planning authority in accordance with section 37.

(3) A planning authority shall have regard to the existence of a drainage course when considering whether any conditions should be imposed in relation to any development or subdivision.

(4) In this section the terms “development” and “subdivision” have the same meaning as those terms have in and for the purposes of Part III.

Works in  
drainage  
courses.

108. Subject to compliance with Part VIII, the Authority is authorised to do drainage works within a drainage course, notwithstanding that the control, management or care of that course, or any portion of that course, does not vest in the Authority.

#### PART X—GENERAL.

Authority  
to make  
good damage.

109. (1) In the exercise of the powers conferred by section 78, or where the Authority is otherwise empowered to enter any land, premises or other thing, whether under this Act or any other Act administered by the Authority, except where this Act or any agreement relating thereto otherwise provides, the Authority shall, in so far as that is practicable, forthwith make good or pay for the making good of, and, in so far as the making good is not practicable pay compensation for, the physical damage done to the land, premises or thing by the Authority in the course and at the time of, and the proximate cause of which is, the exercise or purported exercise of such a power, whether that damage is of a temporary character or a permanent character.

(2) Any dispute as to the manner of making good of, or the amount of any payment in respect of, damage under subsection (1), shall be heard and determined by a Compensation Court duly constituted under the provisions of the Public Works Act 1902, and in the manner provided in that Act.



(3) The Authority shall not be liable to pay to any person any amount in respect of damage under subsection (1) unless—

(a) within 3 months after the damage is sustained, or within such further period as the Minister may allow, the person delivers in writing to the Authority a claim, or notice of intention to make a claim, for such amount; and

(b) where there is no agreement with the Authority on the claim within 12 months after delivery of the claim or the notice, the person, within that time, brings an action against the Authority to establish the requirement for, and entitlement to, payment.

(4) In calculating the amount payable under this section regard shall be had to any compensation received for the damage by the claimant pursuant to any other Act, and the amount payable under this section shall be adjusted accordingly.

(5) In calculating compensation payable under any other Act regard shall be had to any amount received for the damage by the claimant pursuant to this section, and the body or court so calculating is hereby authorised to take such amount, if any, into account.

110. (1) The Authority shall not be liable for any injury or damage, other than damage of the kind referred to in section 109, occasioned in the exercise or purported exercise of a power conferred by this Act or any other Act administered by the Authority, and attributable to the Authority, its officers or agents unless negligence is established.

Actions for damages generally.

(2) No action shall be maintained against the Authority in respect of any injury to the person, where the person injured fails without reasonable excuse to submit himself to medical examination by a specified medical practitioner or practitioners nominated by the Authority within such period as the Authority may by notice in writing require of him where that request is made by the Authority within 3 calendar months of the commencement of proceedings in respect of that injury.

Regulations.

111. (1) The Governor may make any regulations not inconsistent with the provisions of this Act, and whether general or to meet particular cases, that he may think necessary or convenient to give effect to this Act or for any purpose for which regulations are contemplated or required by this Act.

(2) Regulations made under this Act may prescribe a penalty not exceeding \$200 for any contravention or failure to comply with the requirements of the regulations.

Making of regulations and by-laws.

112. (1) Any regulation, or any by-law made by the Authority or a council under this Act may be so made—

- (a) as to apply generally or in a specified class of case, or specified classes of cases, at all times or at a specified time or specified times, or in a specified place or specified parts of the Area;
- (b) as to require a matter affected by it to be in accordance with a specified requirement or as approved by, or to the satisfaction of, a specified person or body, or class of person or body, and so as to authorise a specified body to exercise a discretionary authority; and

(c) as to provide that in specified cases, or a specified class of case, or specified classes of cases, whether on specified conditions or unconditionally, persons or things may be exempted from its provisions either wholly or to such extent as is specified.

(2) Where in relation to a regulation or by-law made under this Act the expression "specified" is used, the expression, unless the context requires otherwise, means specified in that regulation or by-law. " .

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