

WESTERN AUSTRALIA.

COUNTRY TOWNS SEWERAGE.

12° and 13° Geo. VI., No. LXXXII.

No. 82 of 1948.¹

(Affected by Act No. 58 of 1966.)

[As amended by Acts:

No. 15 of 1951, assented to 23rd November, 1951;

No. 73 of 1954, assented to 14th January, 1955;²

No. 52 of 1964, assented to 30th November, 1964;

No. 113 of 1965, assented to 21st December, 1965;³

No. 47 of 1967, assented to 24th November, 1967;⁴

and reprinted pursuant to the Amendments Incorporation Act, 1938.]

**AN ACT to authorise the Minister of Water Supply
Sewerage and Drainage to Construct, Maintain
and Control Sewerage Works in certain areas
and Districts; and for other purposes.**

[Assented to 26th January, 1949.]

BE it enacted by the King'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:—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Country Towns Sewerage Act, 1948-1967*, and shall come into operation on a day to be fixed by proclamation.¹

Short title
and com-
mencement.
Amended by
No. 47 of
1967, s. 1.

2. This Act is divided into Parts, as follows:—

PART I.—PRELIMINARY.

Division.
Amended by
No. 52 of
1964, s. 2.

¹ Came into operation on 8th April, 1949, see G.G. 3/4/49, p. 770.

² Came into operation on the 1st March, 1955, see G.G. 18/2/55, p. 343.

³ Decimal Currency Act, 1965, came into operation 14th February, 1966.

⁴ Came into operation on 31st October, 1969, see G.G. 31/10/69, p. 3362.

PART II.—SEWERAGE AREAS.

PART III.—ADMINISTRATION.

PART IV.—CONSTRUCTION AND MAINTENANCE OF WORKS.

PART V.—THE PROTECTION OF WORKS.

PART VI.—DRAINAGE.

PART VII.—RATES.

PART VIII.—ACCOUNTS AND AUDIT.

PART IX.—BY-LAWS.

PART X.—MISCELLANEOUS.

Interpre-
tation.
Cf. No. 43 of
1909, s. 5.
Amended by
No. 52 of
1964, s. 3.

3. In this Act, unless inconsistent with the context—

“area” or “sewerage area” means a sewerage area constituted under this Act;

“authorised” means authorised by the Minister;

“by-laws” means by-laws made by the Minister under this Act;

“district” in relation to a local authority means a municipal district;

“drain” includes every part of any conduit laid through, under, or upon any street, way, or land, whether public or private, wholly or partly by or at the expense of the owner or occupier of any premises for the carriage therefrom of any sewage up to its junction with any sewer;

“fittings” includes all pipes, cisterns, traps, syphons, manholes, ventilators and all other apparatus connected with any sewer or drain to secure its safe or proper working;

“fixtures” means all apparatus which may be attached to the plumbing or drainage system of any property for the collection or retention of any wastes or waste waters for ultimate discharge into the sewerage

system, and includes closet pans, urinals, baths, sinks, basins and troughs connected with such system;

“local authority” means the council of a municipality, or the board of a health district;

“Local Government Act” means the Act under which a local authority is constituted;

“Minister” means the Minister of Water Supply, Sewerage and Drainage in his corporate capacity as constituted by the Water Supply, Sewerage and Drainage Act, 1912;

“occupier” means the person in actual occupation of land, or, where there is no person in actual occupation, the person entitled to the possession of the land;

“owner” in relation to any land means the person other than the Crown who for the time being is entitled to receive the rent of the land, whether on his own account or as trustee, attorney, or agent for any other person, or who would be entitled to receive the rent if the land were let at a rent;

“pipe” includes any main, reticulation or service pipe used for or in connection with sewerage works under this Act;

“rateable land” means all land that is rateable under the provisions of section forty-seven of this Act;

“ratepayer” includes a person named in the books of the Minister as a person liable to pay rates under this Act;

“sewage” includes faecal matter, urine and liquid wastes, whether domestic or otherwise;

“sewer” means every part of a conduit vested in the Minister through, under or upon any street or land, whether public or private, for the carriage of any sewerage, not being a drain within the meaning of this Act;

“sewerage works” includes the sewers to which this Act extends, and all treatment works, pumps, pumping stations and machinery, fittings and things connected therewith, and all land acquired, held or used by the Minister for the purposes of this Act in relation to sewerage;

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

“unimproved capital value”, in relation to land, means the price at which the land, in fee simple, unencumbered by any mortgage or charge, might be expected to be sold, if no improvements existed thereon, at the time of valuation;

“valuation”, in relation to rateable land, includes the estimated net annual value, and the unimproved capital value, of the land;

“water board” means a water board constituted under the Water Boards Act, 1904-1947,¹ or under the Country Areas Water Supply Act, 1947, and includes a local authority constituted as a water board;

“works” means sewerage works constructed or maintained under this Act, and includes surveys incidental thereto.

PART II—SEWERAGE AREAS.

4. The Governor may, by Order in Council,—
- (a) constitute any part or parts of the State outside the boundaries of the Metropolitan Water, Sewerage and Drainage Area, as constituted and defined by Act No. 43 of 1909 (as amended, from time to time,), as a sewerage area or sewerage areas, under such name or names as may be directed by the Order in Council;

Heading amended by No. 52 of 1964, s. 4. Constitution of sewerage areas. Repealed and re-enacted by No. 52 of 1964, s. 5. Cf. No. 4 of 1904, s. 4.

¹ Now Water Boards Act, 1904-1969.

- (b) alter or extend the boundaries of a sewerage area;
- (c) unite two or more sewerage areas;
- (d) divide a sewerage area and reconstitute the several parts thereof as new sewerage areas, with or without the inclusion of part or parts of another such area or other areas, or any adjacent land;
- (e) include within a sewerage area any adjacent land;
- (f) alter the name of any sewerage area; or
- (g) abolish a sewerage area.

4A. The Governor may, by Order in Council, declare any land in a sewerage area to be exempt from rates under this Act, and may, in like manner, declare any land that is exempt from rates to be rateable land, for the purposes of this Act.

Exemption and inclusion of land for rating purposes. Added by No. 52 of 1964, s. 6.

PART III.—ADMINISTRATION.

5. This Act shall be administered by the Minister.

Method of control.

6. The Governor may from time to time appoint such officers and servants as may be necessary for the execution of this Act.

Appointment of officers and servants. No. 43 of 1909, s. 9.

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

Certain officers to give security. Ibid., s. 10.

8. The Minister shall not be personally liable to pay or make good any sum of money which shall at any time be recoverable under this Act from him or be due by him as Minister, or recovered as damages for any act done or omitted to be done by him in the *bona fide* belief that he is acting in pursuance of this Act.

Minister not to be personally liable. Ibid., s. 11.

Minister
may delegate
his powers.
Ibid., s. 12.

9. The Minister may authorise any officer under this Act to do all and any of the acts, matters, and things which the Minister is hereby authorised or required to do, and every officer so authorised shall have and enjoy all such and the like powers as are hereby conferred on the Minister enabling him to do all such acts, matters, or things respectively, and all such acts, matters, and things, when done under such authority, shall be as valid and effectual as if they had been done by the Minister, and every officer so authorised shall have and enjoy in respect of every such act, matter, or thing so done by him, all such immunities from personal liability as the Minister would have and enjoy if he had done such act, matter, or thing.

PART IV.—VESTING OF PROPERTY, AND THE
CONSTRUCTION AND MAINTENANCE OF WORKS.

Existing
works vested
in Minister.

10. All sewerage works outside the boundaries of the Metropolitan Water, Sewerage and Drainage Area as constituted and defined by the Act No. 43 of 1909, constructed by the Minister prior to the commencement of this Act under the provisions of the Public Works Act, 1902-1945,¹ but in furtherance of the objects of this Act shall, by force of this Act, and without any conveyance, transfer or assignment, vest in and become the property of the Minister, and all such works shall be deemed to have been lawfully constructed under the authority of this Act.

Minister may
construct
works.
Cf. Ibid.,
s. 19.
Amended by
No. 47 of
1967, s. 3.

11. (1) Subject to the provisions of this Act, the Minister shall have power to maintain, alter, and repair, and, with the approval of the Governor, to construct and extend works, and for such purposes may exercise, in addition to the powers conferred by this Act, the powers conferred by the Public Works Act, 1902-1945.¹

Provided that the Minister shall not exercise any of such powers in any sewerage area where the local authority in whose district such sewerage area is situate is itself desirous of undertaking such works.

¹ Now Public Works Act, 1902-1967.

(1a) Where after the coming into operation of the Country Towns Sewerage Act Amendment Act, 1967, a local authority in whose district a sewerage area is situate, undertakes any works in that sewerage area and it appears after inquiry that—

Power of Governor to increase limits of maximum rate under Local Government Act.

- (a) the maximum general rate that the local authority may impose under the Local Government Act will not permit a sufficient amount to be provided for the construction, alteration, repair or maintenance of the works, and for payment of the instalments of capital debt and interest on any of the works with respect to which any debt is owing; and
- (b) the local authority should be permitted to levy a general rate beyond the limits prescribed by the Local Government Act,

the Governor may, by proclamation, grant to the local authority such permission and may in the proclamation specify new limits of the maximum general rate that the local authority may impose under the Local Government Act.

(2) All work from time to time constructed, or in course of construction, by the Minister under the authority of this Act, shall vest in and be the property of the Minister.

(3) At the request or with the consent of a local authority, the Minister, with the approval of the Governor, may acquire from the local authority the whole or part of the sewerage works of the local authority, and all or any property used in connection with such sewerage works, upon and subject to such terms and conditions as may be mutually agreed upon. The Minister shall cause notice of the fact of any such acquisition to be published in the *Gazette*, and, as from the date of such publication, the sewerage works and property of the local authority so acquired shall vest in and become the property of the Minister, and shall be deemed to be works under and for the purposes of this Act.

Acquisition of works from a local authority.

Pre-
liminaries
to construc-
tion.
Ibid., s. 20.
Amended by
No. 52 of
1964, s. 7.

12. The Minister shall, before undertaking the construction of works within any sewerage area, except such works as the Governor may exempt from the operation of this section and the next four following sections—

- (a) cause to be prepared plans, sections, specifications, and an estimate of the cost of the proposed works, together with a statement showing the net earnings estimated to be derived from them, and a statement showing the estimated rateable value of the property to be benefited by them, and cause the same, or certified copies thereof, to be deposited in the office of the Minister and of the local authorities; and
- (b) cause an advertisement to be published in the *Government Gazette*, and in one or more newspapers, generally circulating in the area, specifying—
 - (i) a description of the proposed works;
 - (ii) the localities in which they will be constructed;
 - (iii) the purposes for which they are to be constructed, and the parts of the area which are intended to be sewered; and
 - (iv) the times when, and places at which the plans, sections, and specifications may be inspected.

Plans, etc.
open to
inspection.
Ibid., s. 21.

13. The plans, sections, specifications, and estimates so deposited shall be open to inspection by any person interested at all reasonable times, free of charge.

Objections.
Ibid., s. 22.

14. (1) Any local authority or person interested may object in writing to the construction of the proposed works.

(2) Every such objection shall be lodged with the Minister within one month from the date of the publication of the advertisement hereinbefore prescribed.

15. If, at the expiration of one month after such publication, the Minister is satisfied—

Governor
may
authorise
construc-
tion of
works.
Ibid., s. 23.

- (a) that the provisions of this Act have been complied with;
- (b) that the revenue estimated to be derived from the proposed works is sufficient to justify the undertaking;
- (c) that the works if carried out in the manner designed will be for the public benefit; and
- (d) that the objections, if any, lodged are not sufficient to require the approval of the Governor to be withheld from the proposed scheme,

he shall submit the plans, sections and estimates to the Governor for approval; and, if they are approved, the Governor may forthwith make an Order empowering the Minister to undertake the construction of the works, and such Order shall be notified in the *Government Gazette*.

16. For the purpose of the construction, extension, maintenance, repair, alteration, or improvement of any works, the Minister, and all persons acting with his authority, may enter upon any lands and—

Powers of
Minister.
Cf. Health
Act, 1911-
1944, s. 61;
and Cf. No.
43 of 1909,
s. 24.
Amended by
No. 52 of
1964, s. 8.

- (a) make surveys and take levels of the same and set out such parts thereof as they may think fit;
- (b) may dig or break up the soil of such lands, sink bores or shafts therein, and trench and fence in the same, and remove or use any earth, stones, trees, and other things taken therefrom;
- (c) erect, maintain, or alter buildings, pumping stations, and pumping machinery;
- (d) make, maintain, alter or discontinue drains and culverts upon any lands authorised to be taken;
- (e) construct, alter and maintain under any street, and through, across or under any land any sewer, pipes, or drains;

- (f) open and break up the soil of any street or of any land, and excavate and sink trenches for the purpose of laying down, making and constructing sewers, pipes and drains therein;
- (g) cause any sewers to discharge upon any such land as may be acquired by the Minister for that purpose, or to communicate with the sea, or any arm thereof, or with any river or watercourse, either within or without the limits of an area;
- (h) open, cleanse and repair such sewers, pipes and drains, or alter the position and construction thereof;
- (i) make any sewers or drains from any main sewer laid in any street into any dwelling-house, public or private building or other premises for the purpose of cleansing and draining any such house, building or premises by means of such sewers or drains;
- (j) do all such other acts, matters and things as the Minister may deem proper for making, repairing, completing, or improving any such works:

Provided that nothing herein contained shall authorise the Minister to make or use any sewer, drain, or outfall for the purpose of conveying any sewage or sullage water into any river, natural stream, water-course, lake, or pond until such sewage or sullage water is freed from all such excrementitious or other foul or noxious matter as would, in the opinion of the Minister, materially affect or deteriorate the purity and quality of the water in such river, stream, water-course, lake or pond.

Provided also that the Minister shall make to every person interested compensation for any actionable damage actually sustained by such person through the exercise of the powers conferred by this Act, but any dispute as to the right of any such person to receive compensation, or the amount thereof, shall be heard and determined by a Com-

pensation Court duly constituted under the provisions of the Public Works Act, 1902-1945,¹ and in the manner provided in that Act, and not otherwise.

Provided, also that to establish the right of any such person to receive compensation it shall not be necessary to allege and prove negligence.

17. The Minister may take and acquire any land he may from time to time deem necessary for any of the purposes of this Act, under and subject to the provisions of the Public Works Act, 1902-1945,¹ and shall be deemed a local authority within the meaning of that Act.

Acquisition
of land
No. 43 of
1909, s. 25.

18. Before the Minister opens or breaks up the soil of any street, he shall give to the local authority notice, in writing, of his intention not less than forty-eight hours before beginning the work, except in cases of emergency, which, in the opinion of the Minister, justify the omission to give such notice, in which case it shall suffice if the notice is given as soon as practicable before or after beginning the work.

Notices to
be served on
local
authority
before
breaking up
streets.
Cf. No. 43 of
1909, s. 26.

19. Whenever a notice is required to be given, a street shall not, except in cases of emergency, be opened or broken up except under the superintendence of the local authority having control thereof:

Street not to
be broken
up, except
under
superintend-
ence of local
authority.
Ibid., s. 27.

Provided that if an officer of the local authority, after such notice, fails to attend at the time fixed for the opening or breaking up of the street, or if the local authority or its officer refuses or neglects to superintend the work, the Minister may perform the work specified in the notice without such superintendence.

20. When the Minister opens or breaks up the soil or pavement of a street, he shall—

- (a) with all convenient speed complete the work for which it is broken up, and fill in the ground, and reinstate and make good the street or pavement so opened or broken up; and

Streets
broken up
to be
reinstated
without
delay.
Ibid., s. 28.

¹ Now Public Works Act, 1902-1967.

- (b) while any portion of such street or pavement continues to be opened or broken up, cause such portion of the street or pavement to be fenced or guarded and a sufficient light to be kept there at night.

Local authorities to give particulars as to levels. *Ibid.*, s. 29. Amended by No. 113 of 1965, s. 4 (1).

21. (1) Every local authority shall, when requested by the Minister, give particulars of any levels of any constructed or proposed street in which it is proposed to lay any pipe, sewer, or drain.

(2) The local authority shall give to the Minister at least forty-eight hours' notice in writing of its intention to alter the level of any street in which any pipe, sewer, or drain, is laid down.

(3) Thereupon the Minister may lower any pipe, sewer, or drain, and may raise or lower the fittings thereof, and the cost of so doing shall be a debt due by the local authority to the Minister.

(4) Any local authority failing to give the notice required by this section shall be liable to a penalty not exceeding one hundred dollars.

(5) If the levels of any street are not given by the local authority, the contour of the street shall be deemed the level for the purposes of this section.

Gas pipes, etc., to be altered when necessary. *Ibid.*, s. 30.

22. If the Minister at any time deems it necessary to raise, sink, or otherwise alter the situation of any tram rails, gas pipes, or gas works, hydraulic steam or other pipes, electric or telephonic lines, pneumatic pipes or tubes, or other works laid in or under any street, he may, by notice in writing, require the person to whom the works belong to raise, sink, or otherwise alter the situation of the same in such manner and within such reasonable time as shall be specified in such notice, and the expense attendant upon or connected with any such alterations shall be paid by the Minister, and if such notice shall not be complied with the Minister may make the alterations required.

Altering sewers. *Ibid.*, s. 31. Amended by No. 52 of 1964, s. 9.

23. The Minister may open the ground and change the level of or otherwise amend or enlarge any sewer lying under any public or private street

or place within a sewerage area for better communicating with other sewers or drains:

Provided that no person shall, by means of any such alteration, amendment, or enlargement, be deprived of the use and enjoyment of any drain which he shall be entitled to use; but the Minister shall, at his own cost and charges, so construct and alter any such drain as to render the same as effectual for the purposes for which it was intended as any such drain may be at the time of such alteration.

24. (1) Subject to this section, the Minister shall cause all sewers which shall at any time be vested in him to be constructed, covered, and kept so as not to be a nuisance or injurious to health, and be properly cleared, cleansed, flushed, and emptied, and for the purpose of such clearing, cleansing, flushing, and emptying the Minister may construct or place, either above or underground, such reservoirs, sluices, engine and fittings as he may think necessary and may cause all or any of such sewers to communicate with and be emptied into such places as he may think proper, and may cause the sewage and refuse therefrom to be collected for sale, or for any purpose whatsoever, but not so as to create a nuisance.

Minister to
keep sewers
cleansed.
Cf. *Ibid.*,
s. 32.

(2) It shall be the duty of any water board within whose water area, or country water area, as the case may be, any sewer or drain, or any portion of a sewer or drain, may be in use, to provide and maintain, on request by the Minister but at the expense and risk of the water board, a sufficient and efficient supply of water to and through so much of the sewer and drain as lies within the area aforesaid to properly clear, cleanse, flush and empty such sewer and drain and the fixtures; for which purposes or any of them the Minister may give such directions to the water board as the Minister may think fit, and it shall be the duty of the water board to give effect to all such directions according to their tenor, and within the time and in the manner stated in the direction.

Duty of
water
boards to
supply
water on
request.

As to ventilators, etc.
Ibid., s. 33.
Amended by
No. 52 of
1964, s. 10.

25. The Minister may cause any ventilating shaft, pipe, or tube for any sewer or drain to be attached to any wall of any building within any sewerage area: Provided that the mouth of every such shaft, pipe, or tube, shall be at least six feet higher than any window or door situate within a distance of thirty feet therefrom; and also may make use of the chimney of any public building or of any factory, or of any tramway building as a ventilating shaft or tube:

Provided that no ventilating shaft for the purpose of ventilating any sewer shall be attached to any private residence.

Maps of sewerage districts.
Cf. Ibid.,
s. 34.
Amended by
No. 52 of
1964, s. 11.

26. The Minister shall cause to be made a map of each area, on such scale and with such indications of levels and particulars of sewers, and other works as the Minister may think expedient, and shall cause such map to be from time to time revised, and such additions made thereto as may show the new sewers, drains, and works, and the date of every revision shall be expressed therein. Every such map shall be kept in the office of the Minister, and the same or a copy thereof shall be open, at all reasonable times, to the inspection of the owner or occupier of any land within the area.

PART V.—THE PROTECTION OF WORKS.

Duty to keep fittings in repair.
Cf. Ibid.,
s. 47.

27. The owner and occupier of land connected with any sewer or drain shall keep the service or communication pipe and all fixtures and prescribed fittings within or attached to his land in good repair, so as to effectually prevent waste of water.

Fittings not to be connected or disconnected without notice.
Cf. Ibid.,
s. 48.

28. No person shall—

- (a) connect a pipe, or other fixture or fitting through which sewage is or is intended to be passed; or
- (b) disconnect a pipe, or other fixture or fitting from any other pipe, or other fitting through which sewage is or is intended to be passed,

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

29. (1) Any officer of the Minister may, at all reasonable times, enter upon any land connected with a sewer or drain, and may examine and ascertain—

Power to enter and examine whether water is wasted, etc. Cf *Ibid.*, s. 49.

- (a) what quantity of sewage is being discharged;
- (b) whether there has been or is any blockage, leakage, misuse, or contamination of the sewage or water; and
- (c) whether all fixtures and fittings, with the materials and mode of arrangement thereof, used or intended to be used are in accordance with the by-laws, and in proper order and repair.

(2) When a fixture or fitting is not in accordance with the by-laws, or is out of proper order and repair, or is causing damage to property or is causing or is likely to cause injury to public health, the officer of the Minister may repair or remove it, and if necessary substitute others in its stead or may alter the mode of arrangement, as the case requires. The power conferred by this subsection shall be without prejudice to the provisions of section thirty-three of this Act.

(3) Any expense incurred by the Minister in that behalf shall, on demand, be repaid by the owner or occupier of the land and if not repaid on demand may be recovered by the Minister in the same manner in which sewerage rates may be recovered.

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

Protection of fittings. *Ibid.*, s. 50

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

Power to enter on land and fix fittings. Cf. *Ibid.*, s. 51.

31. (1) Any person authorised by the Minister may at all reasonable times enter upon any land connected or intended to be connected with a sewer or drain and may place and fix thereon and attach thereto, wherever the Minister thinks proper, such fittings as the Minister may think expedient, and may do all other acts and execute all other works which the Minister may think fit.

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

Penalty for using unauthorised fittings. Cf. *Ibid.*, s. 52. Amended by No. 113 of 1965, s. 4 (1).

32. If any owner or occupier of land connected with a sewer or drain does any of the following things for the purpose of discharging sewage in a manner not authorised by this Act, that is to say—

- (a) uses in, places upon or attaches to the land or permits to be so used, placed, or fitted, any fixture, fitting, instrument, or thing not authorised by the Minister; or
- (b) alters, misuses, injures, or removes any fixture or authorised fitting, except for the purpose of necessary repair,

he shall forfeit and pay to the Minister a sum not exceeding one hundred dollars, and shall, in addition be liable to pay to the Minister any damages sustained by the Minister in respect of any injury done to his property.

Penalty for not repairing fittings. Cf. *Ibid.*, s. 53. Amended by No. 113 of 1965, s. 4 (1).

33. If any owner or occupier of land connected with a sewer or drain causes or suffers any pipe, fixture, fitting, or other apparatus used in connection with such sewer or drain to be out of repair without repairing it within a reasonable time or to be so used or contrived that the sewage or water is, or is likely to be blocked, diverted, misused, or contaminated so as to allow the return of foul air or any noisome or impure matter into a pipe belonging to the Minister, or connected with any such pipe, he shall forfeit and pay to the Minister a sum not exceeding twenty dollars, and four dollars for every day during which such default shall continue.

34. If any person, not being authorised by the Minister—

- (a) wilfully or carelessly breaks, injures or opens, or wilfully permits to be broken injured or opened any sewer, drain, fixture or fittings, or any other work; or
- (b) diverts or draws off the sewage from any works of the Minister,

he shall forfeit and pay to the Minister a sum not exceeding one hundred dollars and shall, in addition, be liable to pay to the Minister any damage sustained in respect thereof in repairing the sewer, drain, fixtures, fittings or other parts of the works; and the amount of such damage shall be ascertained, determined, and recovered in the same manner as such forfeited sum.

Penalty for destroying valves, etc.
Cf. *Ibid.*, s. 54 and s. 69.
Amended by No. 113 of 1965, s. 4 (1).

PART VI.—DRAINAGE.

35. (1) As soon as any sewer, or any part thereof, is completed and ready for use, the Minister may, by notice in writing, demand that the owner or occupier of any land whether rateable or not situated within the area and capable, in the opinion of the Minister, of being drained into such sewer, shall construct such drains, fixtures and fittings from and in connection with such land to communicate with such sewer, as the Minister may determine.

Owners and occupiers to make drains to public sewers.
No. 43 of 1909, s. 58.
Amended by No. 15 of 1951, s. 3.
No. 52 of 1964, s. 12.

(2) Such drains, fixtures and fittings shall be made and attached and be supplied with water according to such plans and directions as the Minister shall deem proper for effectually carrying off all sewage and impurities from the said land.

36. (1) The Minister may, after giving the prescribed notice to the owner or occupier of any land, require such drains, fixtures and fittings to be constructed by such owner or occupier within such time as he may limit in that behalf; and may require ventilating shafts, pipes, or tubes to be attached to any building, or erected apart from or otherwise than attached to any building, and to be connected with the drains.

Minister may make drains and attach ventilators in default of compliance with orders.
Cf. *Ibid.*, s. 59.
Amended by No. 113 of 1965, s. 4 (1).

(2) If the same shall not be constructed within such time, or according to such plans and directions as the Minister shall deem proper, the Minister may construct, and attach the same; and for that purpose may enter into or upon the land of any such owner or occupier, and excavate the ground, and make, construct, and attach such drains, fixtures and fittings, and may attach and connect such ventilating shafts, pipes, or tubes as aforesaid.

Cf. Health Act, s. 72 (3) and (4).

(3) The Minister may in any such case recover from the owner or occupier of the land in any court of competent jurisdiction, the full amount of the expenses of or connected with making such drains, fixtures and fittings, or attaching or connecting such ventilating shafts, pipes or tubes, together with interest at such rate, not exceeding five per centum, as may be prescribed; and the cost of providing, laying down, constructing and fixing in readiness for use such drains, fixtures and fittings shall, as between the owner and occupier of the land, be payable by the owner.

Cf. No. 43 of 1909, s. 60.

(4) All such moneys, together with interest as aforesaid, shall be a charge on the lands in respect of which they were expended.

Persons liable for payment for compulsory drainage may agree to pay by deferred payments. Cf. No. 43 of 1909, s. 61.

37. (1) Where any owner or occupier of any land becomes liable to the Minister for the expenses of making drains, fixtures or fittings, or attaching or constructing ventilating shafts, pipes, or tubes, the Minister may, upon the application of such owner or occupier enter into an agreement with such owner or occupier for the payment of such expenses and any costs incurred by the Minister in relation to such works, in not more than twenty-four quarterly instalments from the date of the completion of the work.

(2) Interest at five per centum per annum or at such lesser rate as may be prescribed, on the amount remaining to be paid shall be added to each instalment, and such payments shall be charged upon the land in respect of which such works have been carried out, and may be recovered from any owner of such land with costs.

(3) The obligation of any occupier under an agreement made pursuant to this section shall cease in respect of any instalments becoming due thereunder after his tenancy shall have determined, but without prejudice to the right of the Minister to recover such instalments from the owner.

38. No person shall, without having previously given one week's written notice to the Minister, construct or alter any drain or fitting communicating with any sewer, and no person shall, under any circumstances, construct or alter any such drain, fixture or fitting, except according to such plans as the Minister may approve, and in such manner as he may direct. Any person contravening the provisions of this section shall, on conviction, forfeit and pay a penalty not exceeding one hundred dollars.

No private drain or sewer to be made without notice.
No. 43 of 1909, s. 62.
Amended by No. 113 of 1965, s. 4 (1).

39. (1) All drains, fixtures and fittings communicating with any sewer shall from time to time be repaired and cleansed, under the inspection or direction of the Minister, at the expense of the owner or occupier of the land in respect of which the said drains shall have been constructed; and in case any such owner or occupier shall neglect to repair or cleanse any such drain according to the direction of the Minister, he shall, upon conviction, for every such offence, forfeit and pay a penalty not exceeding twenty dollars.

Drains to be cleansed.
Ibid., s. 63
Amended by No. 113 of 1965, s. 4 (1).

(2) Subject to any agreement between the owner and occupier of any premises, the cost of repairing drains, fixtures and fittings shall as between the owner and occupier, be payable by the owner, and the cost of cleansing drains shall, as between the owner and occupier, be payable by the occupier.

40. (1) The owner or occupier of any land in or on which it is proposed to construct any drain or to construct or alter any closet or urinal or work of a sanitary nature, communicating with the sewers of the Minister, shall, before the commencement of the work, give notice thereof, in writing to the Minister, and furnish the Minister with a plan of the proposed work.

Notice to be given to the Minister before commencing or continuing sanitary work.
Ibid., s. 64.
Amended by No. 113 of 1965, s. 4 (1).

(2) The Minister shall, within seven days after the receipt of the plan, return it with such directions indorsed thereon as may be thought fit.

If the owner or occupier—

- (a) commences or causes to be commenced the construction or alteration of any work as aforesaid without giving such notice or without furnishing the plan as aforesaid; or
- (b) having given the notice and furnished the plan commences or causes to be commenced the construction or alteration of the work before the expiration of the seven days abovementioned, and before the plan has been returned by the Minister; or
- (c) fails to follow the directions indorsed on the plan,

he shall be liable to a penalty not exceeding forty dollars, and any work constructed or altered contrary to or not in accordance with the said directions may be removed by the Minister, and the expenses of the removal may be recovered by the Minister from the owner or occupier:

Provided that the above provisions of this section shall not apply in a case where the Minister declares, in writing under his hand, that he is satisfied that an emergency had arisen which rendered it necessary or desirable that the work should be constructed or altered before the directions of the Minister could be obtained, and that notice was given and a plan was furnished as soon as practicable.

(3) If the construction or alteration of a work to which this section applies is suspended for a month, two clear days notice of the resumption thereof shall be given by the owner or occupier to the Minister.

(4) If the owner or occupier resumes the construction or alteration of a work as aforesaid, or causes it to be resumed, without giving notice as aforesaid, or before the expiration of the time hereinbefore mentioned, he shall be liable to a penalty not exceeding twenty dollars.

41. Where any drain is made to communicate with any sewer, any engineer, surveyor, or other person authorised by the Minister may enter upon any house, tenement, or land and inspect such drain; and in the event of the same being found to be improperly laid, the Minister may cause the same to be properly laid at the expense of the owner of such drain. Such expense may be recovered in like manner as penalties are recoverable under this Act.

Inspection
by Minister.
Ibid., s. 65.

42. (1) No person shall erect, construct or place any building, wall, fence or obstruction in, upon, over or under any sewer without the previous consent in writing of the Minister, and then only upon and subject to such terms and conditions as the Minister may think fit to impose for the protection of the sewer from interference or damage.

No construc-
tion over
sewers
except by
consent.

(2) Subject to subsection (1) of this section, every person who shall erect, construct, or place any building, wall, fence, or obstruction in, upon, over, or under any sewer, so as to interfere with or injuriously affect such sewer in the carrying away of sewage or drainage, and every person who shall obstruct, fill in, close up, or divert any sewer without the previous consent, in writing, of the Minister, shall, in addition to any other penalty to which he may be liable, forfeit and pay a sum not exceeding forty dollars for every such offence, and in case of a continuing offence, a further penalty not exceeding ten dollars for each day after notice shall have been given by the Minister to such person.

Penalties on
persons en-
croaching
on sewers.
Cf. *Ibid.*,
s. 66.
Amended by
No. 113 of
1965, s. 4 (1).

(3) Subject to subsection (1) of this section, the Minister may demolish and remove any such building, wall, fence, or obstruction, and perform any works necessary for restoring or reinstating such sewers; and the person erecting such building, wall, fence, or causing such obstruction, or obstructing, filling in, closing up, or diverting such sewer, as the case may be, shall also pay the expense of removing such building, wall, fence, or obstruction, or of re-opening, restoring, repairing, or re-instating such sewer.

Inspection
of communi-
cating
drains.
Ibid., s. 67.
Amended by
No. 113 of
1965, s. 4 (1).

43. Any person acting under the authority of the Minister may at all reasonable times enter into or upon any land having a drain communicating with the sewers of the Minister, to examine if there is any communication with any other drain or sewer into any land; and if such person is at such time refused admittance or on being admitted is obstructed or prevented from making such inspection and examination as aforesaid, the occupier shall be liable to a penalty not exceeding twenty dollars.

Penalty for
giving use
of drains
without
permission.
Ibid., s. 68.
Amended by
No. 113 of
1965, s. 4 (1).

44. If any person supplied with a drain in pursuance of this Act, or having any drain or sewer which may communicate with the sewers of the Minister, permits any other person not having the authority or consent of the Minister to use any such drain or any branch into the same, every person so offending shall forfeit for every such offence a sum not exceeding twenty dollars over and above the full amount of the damage sustained by the Minister by the acts or means in respect of which such penalty shall be incurred, and the Minister shall be at liberty to cut off from the main sewer the drain of every such person so offending.

Where
separate
properties
are drained
by a
common
drain each
to be liable.
Ibid., s. 70.

45. Where several properties in the separate occupation of several persons are drained by one common drain, such several properties shall be liable to the payment of the same sewerage rates as they would have been liable to if each of such several properties had been connected with the sewer of the Minister by a separate drain, and the costs and charges of repairing and cleaning such common drain by or under the direction of the Minister shall be equally borne by and between each of the owners or occupiers of such several properties.

Agreement
with
Minister.
Ibid., s. 71.

46. The Minister may, by agreement with and at the expense of the owner or occupier of any land within any sewerage area, execute any drainage works which such owner or occupier may be desirous to have executed.

PART VII.—RATES AND CHARGES.

(1) *Rateable Property.*

47. All land shall, subject as hereinafter provided, be rateable land within the meaning of this Act, save and except—

What shall be rateable property. Ibid., s. 72. Amended by No. 52 of 1964, s. 13.

- (a) land the property of the Crown and used for public purposes, or unoccupied;
- (b) land vested in or in the use and occupation of a local authority and not held or occupied by any tenant under the local authority;
- (c) land belonging to any religious body, and used or held exclusively as or for a place of public worship, a Sunday-school, a place of residence of a minister of religion, a convent, nunnery, or monastery, or by a religious brotherhood or sisterhood;
- (d) 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;
- (e) land used, occupied, or held exclusively for charitable purposes;
- (f) land vested in any board under the Parks and Reserves Act, 1895, or in trustees for agricultural or horticultural show purposes, or zoological or acclimatisation gardens or purposes, or for public resort and recreation;
- (g) land used or held as a cemetery;
- (h) land declared by the Governor, under section four A of this Act, or by any Act declared, to be exempt from rates under this Act:

Provided 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.

(2) Rate Books.

Rate books.
Ibid., s. 73.
First
Schedule.
Amended by
No. 52 of
1964, s. 14.

48. The Minister shall cause rate books to be kept for each area in the form or to the effect of the First Schedule, and shall enter therein all rateable land in the area with the several particulars indicated in the said schedule, and in the appropriate column shall state the estimated net annual value or unimproved capital value of such land.

Estimated
net annual
value.
Repealed
and
re-enacted
by No. 52 of
1964, s. 15.
Amended by
No. 113 of
1965, s. 4 (1).

49. The estimated net annual value referred to in section forty-eight of this Act may, at the option of the Minister, be—

- (a) the current net annual value adopted by the local authority in the district of which the land is situated; or
- (b) a sum equal to the estimated full, fair, (average amount of rent at which the land may reasonably be expected to let from year to year, on the assumption (if necessary to be made) that the letting is allowed by law, less a deduction of forty per centum for all outgoings; or
- (c) an amount not exceeding six per centum of the capital value of the land;

but, in estimating the net annual, or the unimproved capital, value of mines, no regard shall be had to the minerals therein or the mining machinery, whether fixed to the soil or not, or to buildings used exclusively for the housing of machinery.

Assessment
on
unimproved
capital
values.
Repealed
and
re-enacted
by No. 52 of
1964, s. 16.

50. The Minister may, in any area, adopt a general system of valuation on the basis of the unimproved capital value of land, except in the district of any local authority that is then levying rates on the net annual value of land in which case the estimated net annual value shall be used instead of the unimproved capital value.

Power to
enter
premises
and make
valuations.
Amended by
No. 52 of
1964, s. 17.

51. For the purpose of making any valuation as mentioned in either of the two last preceding sections, the Minister may, or any officer or valuer authorised by him, may, at any reasonable time, enter and inspect any land or premises within any area.

52. (1) Every rate book shall be made up as early as may be in each financial year, and notice thereof shall be published forthwith in the *Govern-ment Gazette*, and in at least one newspaper circulating in the area concerned.

Rate book to be made up in each financial year and open to inspection.
Cf. No. 62 of 1947, s. 50.
Amended by No. 52 of 1964, s. 18.

(2) For the purposes of this section and in relation to the rating transactions of the Minister the expression "financial year" means the financial year as prescribed in respect of an area from time to time by by-law made by the Minister under this Act.

(3) Where in respect of any area the Minister is of opinion at any time that the making and levying of a sewerage rate for a part of the year only is expedient, the Minister may make and levy the sewerage rate for that part of the year, but the sewerage rate for that part of the year shall bear the same ratio to the rate for the whole year as the part of the year for which the sewerage rate is made and levied bears to a whole year.

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

53. Any person authorised by the Minister, in writing, may, as of right, at all reasonable times inspect, free of charge, all valuations, lists and rate books of any local authority, and the valuations where available of the Commissioner of Taxation relating to any land situate in any area, and may take copies or extracts from them.

Minister may inspect rate books of local authorities.
No. 43 of 1909, s. 77.

54. All persons having the custody of such valuations, lists, or rate books shall, at all reasonable times, and without any fee or charge, afford to the Minister, and all persons authorised by the Minister, free access to the same.

Access to be given.
Ibid., s. 78.

55. Every person having the custody of a valuation list or rate book of any local authority which a person authorised by the Minister is entitled to inspect, who neglects or refuses to permit any such person to inspect the same free of charge, or to make or take copies or extracts therefrom, shall be liable to a penalty not exceeding forty dollars.

Penalty for not permitting inspection.
Ibid., s. 79.
Amended by No. 113 of 1965, s. 4 (1).

Clerks of local authorities to supply copy of rate book.
 Cf. No. 43 of 1909, s. 80
 Amended by No. 52 of 1964, s. 19;
 No. 113 of 1965, s. 4 (1).

56. (1) The town clerk, or as the case may be, the shire clerk of any municipality in which any sewer or drain is laid down shall, within one month after being so required, furnish the Minister with a copy of the rate book of the municipality, verified as a true copy by a statutory declaration made by the clerk.

Minister to pay for copy rate book.

(2) Every such local authority shall be entitled to charge the Minister for such copy at a rate not exceeding four cents per folio of seventy-two words for everything written therein.

Amendments to be notified.

(3) If any alteration or amendment is made to any such rate book the same shall be forthwith notified to the Minister by the town clerk or shire clerk, and the copy of the rate book shall be altered or amended accordingly.

Rateable value.
 No. 43 of 1909, s. 81,
 and No. 2 of 1941, s. 4.
 Amended by No. 52 of 1964, s. 20.

57. The estimated net annual value or unimproved capital value set against all rateable land in the rate books kept by the Minister as aforesaid shall, subject to section seventy-two of this Act and subject to appeal as hereinafter provided, be the rateable value thereof for the current year.

Rate book may be amended.
 Cf. No. 62 of 1947, s. 55.

58. (1) The Minister may from time to time amend any rate book kept by him under this Act by adding the particulars of any land which shall have become rateable, or by inserting the particulars of any rateable land omitted, or by substituting the name of any person erroneously appearing as the owner or occupier of land the name of the true owner or occupier, and by correcting any other error.

(2) The power to amend a rate book shall extend to the rate book for the current financial year and to the rate books for the five years next preceding the commencement of the current financial year.

Notice of amendment to be given.
 No. 43 of 1909, s. 83.

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

60. The Minister may, instead of causing a new rate book to be made up in any year, use the rate book of the last or any previous year, with such alterations and additions as may appear necessary.

Minister may use previous year's rate book.
Ibid., s. 84.

(3) Appeals.

61. Any ratepayer may appeal against the estimated net annual value or, as the case may be, unimproved capital value of any land of which he is the owner or occupier included in a rate book, or any amendment thereof.

Grounds of appeal against assessment.
Repealed and section substituted by No. 52 of 1964, s. 21.

62. Appeals shall be made to the Minister, and from the decision of the Minister there may be a further appeal to any Local Court having jurisdiction within the area, as hereinafter provided.

Appeals, how made.
Ibid., s. 86.
Amended by No 52 of 1964, s. 22.

63. (1) Every appeal to the Minister shall be by notice setting out the grounds of appeal, in the form or to the effect of the Second Schedule.

Appeals to the Minister.
Cf. Ibid., s. 87.
Second Schedule.

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

Cf. 62 of 1947, s. 60 (3).

(3) No appeal shall be entertained unless the appellant deposits with the Minister one-half of the amount of the rates then due and payable in respect of the land affected.

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

Third Schedule.

64. (1) Every appeal to a Local Court from the decision of the Minister shall be commenced by notice setting out the grounds of the appeal, in the form in the Fourth Schedule or to the like effect.

Appeals to the Local Court from decisions of the Minister.
Ibid., s. 88.
Fourth Schedule.

(2) The notice shall, within ten days after the decision appealed from, be served on the Minister and the clerk of the Local Court.

(3) 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.

Hearing of
appeal.
Ibid., s. 89.

65. (1) On the hearing of all appeals, the rate book or a copy or extract therefrom certified by the Minister shall be produced; and the Minister, or the Local Court on appeal from the Minister, on the day of hearing, or at any adjournment thereof, may make such order as shall be just, and shall direct any alterations or additions occasioned by such order to be made in the rate book.

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

(4) The Making of Rates.

Land subject
to sewerage
rates.
Cf. No. 43 of
1909, s. 91.
Amended by
No. 52 of
1964, s. 23.

66. The Minister shall, from time to time, make and levy sewerage rates in respect of all rateable land within any area in which a sewer, or any part thereof, is completed and ready for use:

Provided that—

- (a) the first rate made and levied in respect of any area may be proportioned to the number of months remaining unexpired in the financial year from the date of the making of the rate;
- (b) before making any rate, the Minister, at the request of any owner or occupier of land, may connect the land with a sewer or drain and make charges in respect thereof as prescribed by by-law under this Act;
- (c) no land shall be rateable under this section unless such land is capable, in the opinion

of the Minister, of being connected with a sewer, and notice thereof has been given, by or on behalf of the Minister, to the owner or occupier.

67. Subject to section sixty-eight of this Act, separate rates may be made for each area, or for different parts of an area, and for the following purposes:—

Separate rates to be made for each area. No. 43 of 1909, s. 93. Amended by No. 52 of 1964, s. 24.

- (a) To provide funds to defray the expenses of the general administration of this Act apportioned to the area.
- (b) To provide funds to defray the expenses incidental to each area, incurred in the maintenance and management of the sewerage works in the area.
- (c) To provide funds for paying the prescribed interest and sinking fund on the capital cost of such works allocated to each area.
- (d) To provide funds for the construction, extension, and improvement of such works in the area as may be constructed, extended, or improved out of revenue.

68. (1) The sewerage rate shall not in any one year exceed—

Amount of rate. Amended by No. 52 of 1964, s. 25. No. 113 of 1965, s. 4 (1).

- (a) fifteen cents in the dollar on the estimated net annual value of the land rated, or
- (b) two and one-half cents in the dollar on the unimproved capital value of the land rated, where the valuation is on the basis of the unimproved capital value of the land.

(2) The Minister may make and levy a minimum rate of the prescribed amount upon any land the annual rate on which would not exceed such amount, but such prescribed amount shall not exceed two dollars.

69. (1) Whenever any rate is ordered by the Minister to be made and levied, the Minister shall, on a vacant page of the rate book, to be left blank for the purpose, sign a memorandum of such order, and cause notice thereof to be published in the

Manner of making rate. Ibid., s. 95, and No. 2 of 1941, s. 4. Amended by No. 52 of 1964, s. 26.

Government Gazette and a newspaper usually circulating in the area.

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

Rate for unexpired portion of year in case of new pipes, sewer or drain.
Cf. *Ibid.*, s. 96.

70. Whenever a sewer or drain is laid down or extended after a rate has been struck for the year, and notice thereof is published in the *Government Gazette*, a proportionate part of the rate shall thereupon become payable in respect thereof for the unexpired portion of the year from the date of such notice.

"*Gazette*" evidence of striking of rate.

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

Estimated net annual values may be restated during year.
Repealed and re-enacted by No. 52 of 1964, s. 27.
Cf. No. 2 of 1941, s. 4.

72. (1) Where it appears to the Minister during the currency of any year, that, by reason of improvements made to, or erected upon, rateable land, the net annual value has become greater, or that, by reason of the destruction, damage or demolition of improvements made and standing upon rateable land, the net annual value of the land has become less, than the estimated net annual value of that land stated in the rate book for that year, he may cause the estimated net annual value to be restated for, and in respect of, the then unexpired portion of the year and may, to the extent that the restatement justifies the making of an amendment and adjustment, amend and adjust, either by increase or reduction, as the case may require, the amount of the water rates payable on the land.

(2) For the purposes of section sixty-one of this Act (relating to appeals), the restatement of the estimated net annual value of rateable land under this section is an amendment of the estimated net annual value.

72A. The Minister may prescribe and levy charges for any sewerage services rendered by him in respect of non-rateable land.

Power to prescribe charges for sewerage services.
Added by No. 15 of 1951, s. 4.
Cf. Metropolitan Water Supply Act, 1909, reprinted 17/3/64, s. 101.

72B. The Minister may, instead of or as well as making and levying a sewerage rate pursuant to the provisions of section sixty-six of this Act; or prescribing and levying a charge pursuant to the provisions of the last preceding section, prescribe and levy charges for the admission of sewage into any sewer.

Power to prescribe charges for admission of sewage into sewers.
Added by No. 15 of 1951, s. 4.

(5) *Payment of Rates.*

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

Rates, when payable.
No. 43 of 1909, s.98.

74. When any land becomes rateable under section sixty-six of this Act and the owner or occupier shall have paid or shall be liable to pay to the local authority a sanitary rate in respect of the same land for the same period as that for which a sewerage rate has been made and levied under this Act, the local authority shall repay or allow a rebate of a proportionate part of such sanitary rate, such rebate to be calculated from the time when the connections to the land have been made.

Rebate of sanitary rate paid to local authority.
No. 43 of 1909, s. 102.

(6) *Liability for and Recovery of Rates.*

Division (1)—Generally.

75. (1) The amount of any rates made or charges prescribed and levied under this Act shall be payable, in the first instance, by the occupier of the land rated or of the land in respect of which the charge is levied as the case may be.

Who is liable for rates.
Ibid., s. 103.
Amended by No. 15 of 1951, s. 5.

(2) The amount of such rates or charges may also, at the option of the Minister, be recovered from the owner of the land rated or of the land in respect of which the charge is levied as the case may be.

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

Payment of rates by mortgagee. *Ibid.*, s. 104. Amended by No. 15 of 1951, s. 6.

76. If a mortgagee of rateable land pays any rates or charges accrued thereon under this Act or any of the Acts hereby repealed, including any interest due upon such rates or charges, 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.

Rates apportioned on the occupier, etc., quitting. *Cf. Ibid.*, s. 105. Amended by No. 15 of 1951, s. 7.

77. (1) When an occupier or owner ceases to be the occupier or owner of the land in respect whereof a rate is made, before the end of the period in respect of which such rate is made, such occupier or owner shall, as between himself and the succeeding occupier or owner, be liable to pay a portion only of the rate payable for the whole of such period proportionate to the time during which he continued to be the occupier or owner and any person who is the occupier or owner of the land during the remainder of the period shall be liable to pay a portion of such rate in proportion to the time during which he is such occupier or owner.

(2) But the rate in respect of such land shall continue in force, and payment thereof may be enforced against the occupier or owner for the time being as if no change had taken place in the occupation or ownership.

(3) Where any land rated as one property has been divided between two or more owners or

occupiers, any rates imposed in respect of the period current when the division took place shall, for the purposes of this Part of this Act, be deemed to be apportionable between the different portions of the land on the basis of the respective values or areas (according to the method of assessment adopted) of such portions.

(4) In this section the word, "rate" includes a charge prescribed pursuant to the provisions of section seventy-two A of this Act, and the word, "rated" has a correlative meaning.

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

Persons liable to be resorted to in succession. Ibid., s. 106. Amended by No. 15 of 1951, s. 8.

79. The amount payable in respect of any rate made or charge prescribed and levied under this Act shall be recoverable either by complaint or action, or by sale as hereinafter mentioned, and such amount and the amount of all costs, charges and expenses of any proceedings to recover the same, shall constitute a charge and have priority to every security or claim (including rent) of any description against the estate, real and personal, of the person liable to make payment of such amount.

How rates may be recovered. Ibid., s. 109. Amended by No. 15 of 1951, s. 9.

80. 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 Minister, and all entries made or purporting to be made therein, or certified copies thereof or extracts therefrom, 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 provisions of this Act have been complied with.

Rate book to be evidence. Ibid., s. 110.

Refusal to
give name
of person
liable.
Ibid., s. 111.
Amended by
No. 113 of
1965, s. 4 (1).

81. If, on the request of the Minister or any collector of rates duly authorised by the Minister—

(a) the occupier of any land refuses or wilfully omits to disclose, or wilfully mis-states to the Minister or collector making such request, 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 the land on the like request so refuses or wilfully omits to disclose, or wilfully mis-states the name of the owner of the land,

he shall be liable to a penalty not exceeding ten dollars.

Application
of this Part
to annexed
areas.
Ibid., s. 112.
Amended by
No. 52 of
1964, s. 28.

82. On any annexation to or extension of an area, all the provisions of this Part of this Act, with respect to any rate made, shall be deemed to have been duly complied with for the year then current in respect of all rateable land within the area so annexed or extended, and the Minister may cause a valuation to be estimated or made of such land for the purpose of any such rate; but the amount of rates chargeable for the current year shall be calculated for the portion of the year from the date of the annexation or extension.

Division (2)—Power of Sale.

Land may be
sold for
arrears of
rates, etc.,
remaining
unpaid for
five years.
No. 62 of
1947, s. 89.
Amended by
No. 15 of
1951, s. 10.

83. (1) When in respect of any land any sewerage rates or charges accrued thereon under this Act have remained unpaid for the term of five years or longer after becoming due and payable, the Minister shall, by virtue of this Act, have power, subject to the provisions hereinafter made, to sell and transfer and convey the land.

(2) The power of sale shall include power—

(a) to sell the land or any part thereof, either together or in lots, by public auction, or

- by private contract subject to terms and conditions with respect to the payment of the purchase money, or any other matter, including power to fix a reserve;
- (b) to vary any contract of sale and to buy in at any auction;
 - (c) to rescind any contract for sale and to resell without being answerable for any loss occasioned thereby;
 - (d) to subdivide the land and make such streets and roads and grant such easements of right-of-way or drainage therein as the circumstances of the case may require and the Minister thinks fit, subject to all laws relating thereto:

Provided that the land shall not be sold by private contract until it has been first offered for sale by public auction.

84. (1) The Minister shall not exercise the power of sale conferred by this Division of this Part of this Act until notice requiring payment of all moneys owing and referred to in the next preceding section in respect of the land has been—

- (a) in the case of land under the Transfer of Land Act, 1893-1946,¹ 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, 1893-1946,¹ 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 memorial;
- (c) served on every person appearing by the register book kept at the Office of Titles or

Conditions
for exercise
of power of
sale.
No. 62 of
1947, s. 90.

¹ Now Transfer of Land Act, 1893-1969.

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 Minister 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 the notice reference to lands in the same locality and belonging to more than one owner.

Contents of notice.
No. 62 of 1947, s. 91.

85. Every notice requiring payment shall—

- (a) be in writing and be dated and signed by or on behalf of the Minister;
- (b) specify the total of the moneys owing and of which payment is required;
- (c) specify the land in respect of which the moneys 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 moneys specified therein the land will be offered for sale by public auction after the expiration of three months from the date of notice at a time appointed by the Minister.

Fixing of time for sale by auction.
No. 62 of 1947, s. 92.

86. The Minister shall appoint a time not less than three months and not more than twelve months from the service of the notices required by section eighty-four of this Act at which the land may be offered for sale by public auction unless the moneys owing be paid.

87. (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 and keeping posted a copy of the advertisement in a conspicuous place at the office of the Minister 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 land, who, on payment of the prescribed fee, shall register the memorial and endorse or note a reference to it on the title or land register of every piece of land comprised in the memorial;
- (e) by any other means which, in the circumstances, the Minister regards as reasonable and proper.

Advertisement for sale.
No. 62 of 1947, s. 93.

(2) The advertisement shall contain a sufficient description of the land and any improvements thereon.

(3) In the advertisement it shall be competent to include reference to lands within the same locality and belonging to more than one owner.

88. Up to the time of the actual sale of any land for non-payment of moneys payable and referred to in section eighty-three of this Act, any person having any estate or interest in the land may pay all the moneys then payable, and the costs then incurred, and thereupon the proceedings shall be stayed, and the Minister 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 land for noting on the title or land register, a certificate signed by or on behalf of the Minister certifying that the moneys and costs have been paid, and the title or land register shall be noted accordingly by the proper officer, whereupon the land shall cease to be bound.

Right to pay rates.
No. 62 of 1947, s. 94.

Power to
transfer or
convey land.
No. 62 of
1947, s. 95.

89. The Minister, in exercising the power of sale conferred by this Division of this Part of this Act, shall have power by proper transfer (where the land is under the Transfer of Land Act, 1893-1946,¹ 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),¹ 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), but 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) in force and contained in the grant or Crown lease, or conditional purchase lease of the land, and to any public rights-of-way, and to any other easements acquired by enjoyment or user, or subsisting over and upon or affecting the land, and to any charge imposed by a law of the Commonwealth or State, 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.

Statutory
declaration.
No. 62 of
1947, s. 96.

90. A transfer or conveyance expressed to be in exercise of the power of sale conferred by this Division of this Part of this Act shall, if accompanied by a statutory declaration by the Minister or person authorised by him on his behalf that the provisions of this 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 land, as sufficient evidence that the power of sale has been properly exercised.

Functions of
Minister and
Registrar
relating to
transfer or
conveyance.
No. 62 of
1947, s. 97.

91. (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 by the Minister or person authorised by him on his behalf.

¹ Now Transfer of Land Act, 1893-1969.

(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 land, for registration, and shall be accompanied by the prescribed registration fees.

(3) Where the land sold is under the Transfer of Land Act, 1893-1946,¹ the Registrar of Titles, upon production to him of the transfer and declaration, shall register the transfer, and notwithstanding any provision of that 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 expressed to be in 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, subject to this Act, have his remedy in damages against the Minister, but shall have no other remedy in damages or for compensation against the Crown or the assurance fund established under the Transfer of Land Act, 1893-1946.¹

Cf. s. 115
post.

92. If moneys referred to in section eighty-three of this Act are owing for the period of five years in respect of more than one piece of land in the name of the same owner, all the moneys and all the land may be referred to in one notice requiring payment and in one advertisement of sale.

Combination
of all lands
of same
owner.
No. 62 of
1947, s. 98.

93. The money arising from the sale and received by the Minister shall, notwithstanding the disability of any person or any statute of limitations, be held by the Minister to be applied as follows:—

Application
of purchase
money.
No. 62 of
1947, s. 99.
Amended by
No. 52 of
1964, s. 29.

¹ Now Transfer of Land Act, 1893-1969.

Firstly—In payment of the costs, charges and expenses properly incurred by the Minister as incidental to the sale or attempted sale or otherwise.

Secondly—In payment of all moneys owing and referred to in section eighty-three of this Act.

Thirdly—In payment of all unpaid moneys owing for rates and taxes and any costs or other moneys due to or imposed by the Crown in the right of the State or any Department, Agency, Instrumentality or Branch of Her Majesty's Government of the State including the Government Agency Department of the Rural and Industries Bank of Western Australia and also in payment of all moneys for unpaid rates due to or imposed by the Council of the Municipality and the Local Authority under the Health Act, 1911-1944,¹ in respect of the land at the time of the sale.

Provided that where the moneys remaining after the payments provided for firstly and secondly herein have been made are not sufficient for the payment in full of all the rates, taxes and other moneys mentioned and provided for in this paragraph such moneys shall be distributed between the Crown, the Department, the Agency, the Branch, the Council of the Municipality and the Local Health Authority *pro rata* with the amounts of their claims respectively.

Provided also that, when land is sold under this Act and the land is situated in the districts of two or more local authorities, the Governor may determine for the purpose of this paragraph the proportionate part of the whole of the purchase price which shall be allocated to that part of the land situated in each district.

¹ Now Health Act, 1911-1970.

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 Minister.

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 those 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 land, the money may be paid into the Supreme Court under section ninety-nine of the Trustees Act, 1962, and thereafter the money so paid into Court shall be subject to the provisions of that Act so far as the same are applicable; but any petition, claim, suit or action for or in respect of that money shall be presented within six years after payment into the Supreme Court, and after the expiration of that period, the money then in the Supreme Court to the credit of the particular trust concerned shall, if there be no 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.

94. The receipt of or on behalf of the Minister in writing shall be a sufficient discharge for any money paid on the exercise of the power of sale conferred by this Division of this Part of this Act, and a person paying the money shall not be concerned to inquire whether any money referred to in section eighty-three of this Act remains due to the Minister in respect of the land sold.

Receipt a
discharge.
No. 62 of
1947, s. 100.

Power to
sell after
advertise-
ment lapses
if sale not
made within
a year.
No. 62 of
1947, s. 101.

95. If the land is not sold, and, in the case of land under the Transfer of Land Act, 1893-1946,¹ 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 eighty-seven of this Act then, subject to the next succeeding section of this Act, the advertisement and all subsequent proceedings under this Division of this Part of this Act shall no longer be in force, and shall cease to bind the land.

Power to
transfer
land to
Crown.
No. 62 of
1947, s. 102.

96. If land is offered for sale by auction pursuant to this Division of this Part of this Act, 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 Minister with the consent of the Governor, shall have power by transfer (where the land is under the Transfer of Land Act, 1893-1946)¹ and by deed (where the land is not under the Transfer of Land Act, 1893-1946)¹ to transfer or convey an estate in fee simple to Her Majesty:

Provided that the Governor shall not consent, unless he is satisfied that there is no reasonable prospect of selling the land pursuant to this Division of this Part of this Act within a reasonable time.

(2) Where the land is under the Transfer of Land Act, 1893-1946,¹ the transfer shall be executed in proper form under the hand of the Minister or a person authorised by him on his behalf and registered under that Act, and where the land is not under that Act, the conveyance shall be executed in like manner and 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 Her

¹ Now Transfer of Land Act, 1893-1969.

Majesty, and thereupon and notwithstanding the provisions of the Transfer of Land Act, 1893-1946,¹ 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, 1893-1946,¹ 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 that Act, 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, 1893-1946,¹ the Registrar of Deeds may require the Minister 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, 1893-1946.¹

(4) No stamp duty nor fee of any kind shall be payable upon any transfer or conveyance referred to in this section upon lodging or registering it 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—

- (a) shall, if accompanied by a statutory declaration of the Minister or person authorised by him on his behalf that the provisions of this Division of this Part of this Act have been properly 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 so exercised;
- (b) shall not be impeachable on the ground that no case had arisen to authorise the exercise of the power, or that proper notice was not given, or that the power was otherwise improperly or irregularly exercised,

¹ Now Transfer of Land Act, 1893-1969.

but any person damnified by an unauthorised or irregular exercise of the power shall, subject to this Act, have his remedy in damages against the Minister, but shall have no other remedy in damages or for compensation against the Crown or the assurance fund established under the Transfer of Land Act, 1893-1946.¹

Discharge of liability on sale of land. No. 62 of 1947, s. 103.

97. Any sale of land by the Minister pursuant to this division of this Part of this Act, or any transfer or conveyance made pursuant to the next preceding section 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 Minister for moneys referred to in section eighty-three of this Act and then due to the Minister, or other moneys then due to the Minister for any purpose which, at the time of the sale or the transfer or the conveyance, were a charge upon the land, or which were otherwise recoverable by the Minister in respect of the land, whether pursuant to this Act or any other Act.

Saving provision. No. 62 of 1947, s. 104.

98. Subject to the next preceding section of this Act, the powers conferred by this Division of this Part of this Act shall not affect any other remedy of the Minister for the recovery of money due under this Act for rates.

PART VIII.—ACCOUNTS AND AUDIT.

Accounts. No. 43 of 1909, s. 141.

99. The Minister shall cause books to be provided and kept, and true and regular accounts to be entered therein—

- (a) of all moneys received and paid by him, and of all moneys owing to and by him, under this Act, and of the several purposes for which such moneys are received and paid, and owing; and
- (b) of all the assets and liabilities of the Minister under this Act.

¹ Now Transfer of Land Act, 1893-1969.

100. All such books shall be open to the inspection of the Auditor General, and any person authorised by the Auditor General to inspect the same, and copies or extracts may be taken therefrom.

Books may be inspected. Ibid., s. 142.

101. The Minister shall cause his accounts to be balanced every year at the end of the financial year.

Accounts to be balanced. Ibid., s. 143.

PART IX—BY-LAWS.

102. The Minister may, subject to the provisions of this Act, and with the approval of the Governor, make by-laws with respect to the following matters, that is to say:—

Minister may make by-laws. Cf. Ibid., s. 146.

Amended by No. 15 of 1951, s. 11. No. 52 of 1964, s. 30.

- (1) The general conduct of his business and proceedings, and the control, supervision, guidance, and duties of his officers and servants.
- (2) The due management and use of the sewerage works, and other property of the Minister, and of any fluids under his jurisdiction or authority.
- (3) Protecting and preventing and remedying the blockage, leakage, misuse, or contamination of water, sewerage, sewers and drains.
- (4) The construction, maintenance, cleansing, repair, management, and use of the sewerage works, sewers, pipes, and other property of the Minister, and drains.
- (5) Protecting the sewerage works, sewers, drains, pipes, and fittings from trespass and injury.
- (6) Regulating the purposes for which any pipes, drains, or sewers shall be used or applied.
- (7) Regulating the dimensions, material, form, construction, and arrangement of, and the maintenance or alteration of ventilators for pipes, drains, or sewers.

Regulating business.

Managing works. Cf. s. 24 ante.

Preventing blockage, etc.

Construction and use of works.

Protecting works.

Use of pipes, drains, etc.

Ventilators.

- | | |
|---|---|
| Disinfection and treatment. | (8) Regulating the disinfection and cleansing of or otherwise dealing with any substance or matter, including trade wastes, before the discharge thereof into any drain or sewer. |
| Fees for tapping mains or connecting with sewers. | (9) Prescribing the fees payable for connecting with the sewers of the Minister. |
| Quantity of sewage. | (10) Prescribing the quantity of sewage which may be discharged from a property in respect of any rates or charges paid for any given period and prescribing charges for sewage so discharged in excess of that quantity. |
| Classes of industry. | (11) Defining and specifying the classes of industry from which liquid wastes may be accepted in the sewers, and the general and special terms upon which wastes will be accepted. |
| Discharge of trade wastes. | (12) Prescribing the quantity of sewage that may be discharged from a specified industry and the charge to be made in respect of that industry. |
| Fixing levels. | (13) Prescribing the levels from below which sewage will not be accepted to the sewers and specifying the positions where the fixtures may be placed. |
| Rates. | (14) Making, levying, and collecting sewerage rates and other charges, and prescribing the forms and manner of collection, and fixing a minimum rate to be paid in respect of land under a prescribed value. |
| Repair of fittings. | (15) Compelling persons to keep their pipes, fixtures and fittings in proper repair. |
| Prohibiting alteration of fittings. | (16) Prohibiting any alteration of or interference with any sewer, pipes, drain, fixture or fittings, without the consent of or notice to the Minister. |
| Enabling Minister to repair fittings at cost of consumer. | (17) Enabling the Minister to repair such pipes, fixtures and fittings, and to recover the cost of such repairs from the owner or occupier of the land. |

- (18) Prohibiting any mode of arrangement, and the use of any fixtures or fittings which may, in the opinion of the Minister, cause or tend to cause blockage, leakage, misuse, or contamination of the water, sewage, sewers or drains. Arrangement of fittings.
- (19) The inspection of all pipes, sewers, drains, fixtures and fittings. Inspection.
- (20) Regulating the examination and licensing of persons to perform work in connection with pipes, sewers, drains and fittings; the cancelling of such licenses and prohibiting any other than licensed persons from fixing, altering, or repairing pipes, sewers, drains, fixtures or fittings connected with the works of the Minister. Licensing plumbers.
- (21) Prescribing and defining the financial year in relation to any particular area. Financial year.
- (22) Prescribing fees or charges for or in respect of licenses. Fees.
- (23) Prescribing forms to be used for the purposes of this Act, and modifying any of the forms contained in the Schedules, including the adaptation of any form for incorporation with any form used by a local authority or a water board. Forms.
- (24) And for any other purposes relating to the administration of this Act and the exercise of the powers vested in the Minister. Generally.

102A. Any fees or charges imposed by or payable under this Act may be expressed in any by-law to apply only in relation to any particular areas, or to differentiate between particular areas, and, where so expressed, shall have effect accordingly.

Power to differentiate in rates and charges.
Added by No. 15 of 1951, s. 12.
Amended by No. 52 of 1964, s. 31.

103. Every by-law—

- (1) may impose a penalty not exceeding forty dollars for breach thereof, and, in the case of a continuing breach, a further penalty not exceeding ten dollars for each day the offence continues after notice thereof has

Penalties for breach of by-laws.
No. 43 of 1909, s. 147.
Amended by No. 113 of 1965, s. 4 (1).

been given by or on behalf of the Minister to the offender; and

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

PART X.—MISCELLANEOUS.

Notices.
Ibid., s. 149.

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

Service of notices when name of owner or occupier unknown.
Cf. Ibid., s. 150 (3).
Amended by No. 52 of 1964, s. 32.

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

Notices binding on persons claiming under owner or occupier.
Ibid., s. 151.

106. 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 Minister.
Ibid., s. 152.

107. Every order, summons, notice, or other document requiring authentication by the Minister may be sufficiently authenticated, without the common seal, if signed by the Minister.

Saving of civil remedy.
Ibid., s. 153.

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

Contribution between owner and occupier.
Ibid., s. 155.

109. Any money paid by an occupier, which as between the occupier and owner is, under the provisions of this Act or the by-laws, payable by the

owner, may be recovered by the occupier from the owner by action in any Court of competent jurisdiction, or may be set off against any rent payable by the occupier to the owner.

110. Every person who obstructs the Minister, or any person employed by the Minister, 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 forty dollars.

Obstructing Minister or officers in performance of duty.
Ibid., s. 156.
Amended by No. 113 of 1965, s. 4 (1).

111. Any person having charge of any works, the property of the Minister, who refuses, on lawful demand, to give up peaceable and quiet possession of the same to any person entitled to possession under the provisions of this Act, shall be guilty of a misdemeanour, and shall be liable to a penalty not exceeding four hundred dollars, and to be imprisoned for any period not exceeding twelve months.

Penalty for refusing to give up possession of works.
Ibid., s. 157.
Amended by No. 113 of 1965, s. 4 (1).

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

Offenders may be arrested.
Ibid., s. 158.

113. All penalties and forfeitures incurred under this Act, or any by-law made thereunder, may be recovered summarily before any two or more Justices of the Peace in the manner provided by the Justices Act, 1902-1942,¹ on the complaint of the Minister or any officer or servant of the Minister.

Summary proceedings for offences and recovery of penalties.
Ibid., s. 159.

114. In any proceeding in any Local Court, or before Justices of the Peace, any officer of the Minister may represent the Minister in all respects as if he were the party concerned.

Minister may be represented by officer.
Ibid., s. 161.

115. [*Repealed by No. 73 of 1954, s. 5.*]

116. Any person appointed under the hand of the Minister may, for the purposes of this Act, search

Books of Land Titles and other offices may be searched without fee.
Ibid., s. 163.

¹ Now Justices Act, 1902-1968.

the public registers of the Office of Titles and Registry of Deeds, or any office of the Department of Lands, without payment of any fee.

Property of
Minister not
to be taxed.
Ibid., s. 164.

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

Proof of
ownership or
occupancy.
Cf. Ibid.,
s. 165, and
No. 62 of
1947, s. 120.

118. (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 of any land;
or
- (b) evidence by the certificate, in writing, of—
 - (i) the Registrar of Titles, or any assistant or deputy registrar, that any person's name appears in any register book kept under the Transfer of Land Act, 1893-1946,¹ as proprietor of any land; or
 - (ii) the Registrar of Deeds, or his deputy, that any person appears from any memorial of registration of any deed, conveyance, or other instrument to be the owner of any land; or
 - (iii) the Under Secretary for Lands that any person is registered in the Department of Lands as the owner occupier, or lessee of any land; or
 - (iv) the Under Secretary for Mines, that any person is registered in the Mines Department as the lessee or holder of any gold mining lease, mineral lease or other mining tenement; or
 - (v) the Surveyor General, that any plan or reproduction of a plan represents part of the State,

shall until the contrary is proved be evidence that

¹ Now Transfer of Land Act, 1893-1969.

Country Towns Sewerage.

Sec. 63.
Amended by
No. 52 of
1964, s. 35.

SECOND SCHEDULE.

Country Towns Sewerage Act, 1948.

.....Area.

NOTICE OF APPEAL.

To the Minister of Water Supply, Sewerage, and Drainage:

Take notice that I appeal against the valuation in the Rate Book in respect of the undermentioned property, on the grounds stated.

Land Rated.

.....
.....

Grounds of Appeal.

.....
.....

Dated the day of , 19 .

(Signed) Name.....

Address.....

THIRD SCHEDULE.

Country Towns Sewerage Act, 1948.

.....Area.

Notice is hereby given that the Minister for Water Supply, Sewerage, and Drainage has appointed the day of , 19 , at o'clock in the noon, at to hear the undermentioned appeals from the valuation in the Rate Book for the year 19 .

Appeals.

.....
.....
.....
.....
.....
.....

ted the day of , 19 .

Sec. 63.
Amended by
No. 52 of
1964, s. 35.

FOURTH SCHEDULE.

Sec. 64.
Amended by
No. 52 of
1964, s. 35.

Country Towns Sewerage Act, 1948.

.....Area.

NOTICE OF APPEAL FROM THE MINISTER TO THE
LOCAL COURT AGAINST VALUATION.

To the Minister of Water Supply, Sewerage, and Drainage,
and the Clerk of the Local Court, held at .

Take notice that it is my intention to appeal from the
decision of the Minister in the matter of the valuation of
the undermentioned land, to the Local Court held at
on the day of , 19 .

Description of Land.

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Grounds of Appeal.

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Dated the day of , 19 .

(Signed) Name.....

Address.....
