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at 28 May 1996

WESTERN AUSTRALIA

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# COUNTRY TOWNS SEWERAGE ACT 1948

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## ARRANGEMENT

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### PART I — PRELIMINARY

- |    |                              |   |
|----|------------------------------|---|
| 1. | Short title and commencement | 2 |
| 3. | Interpretation               | 2 |

### PART II — SEWERAGE AREAS

- |    |                                |   |
|----|--------------------------------|---|
| 4. | Constitution of sewerage areas | 4 |
|----|--------------------------------|---|

### PART III — ADMINISTRATION

- |    |                                  |   |
|----|----------------------------------|---|
| 9. | Minister may delegate his powers | 5 |
|----|----------------------------------|---|

*Country Towns Sewerage Act 1948*

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

11.	Corporation may construct works	6
23.	Altering sewers	7
23A.	Extension of sewerage works to land not subject to a charge	8
24.	Corporation to keep sewers cleansed	8
25.	As to ventilators, etc.	9

**PART V — THE PROTECTION OF WORKS**

27.	Duty to keep fittings in repair	10
28.	Fittings not to be connected or disconnected without notice	10
29.	Power to enter and examine whether water is wasted, etc.	10
30.	Protection of fittings	11
31.	Power to enter on land and fix fittings	12
32.	Penalty for using unauthorized fittings	12
33.	Penalty for not repairing fittings	13
34.	Penalty for destroying valves, etc.	13

**PART VI — CONNECTIONS TO PROPERTY**

35.	Owners and occupiers to make property sewers to public sewers	15
36.	Corporation may make property sewers and attach ventilators in default of compliance with orders	15
37.	Persons liable for payment for compulsory drainage may agree to pay by deferred payments	16
39.	Property sewers to be cleansed	17
40.	Notice to be given to the Corporation before commencing or continuing sanitary work	18
41.	Inspection by Corporation	19
41A.	Notification of building or alteration	20
42.	No construction over sewers except by consent	21
43.	Inspection of communicating property sewers	22
44.	Penalty for giving use of property sewer without permission	23

## *Country Towns Sewerage Act 1948*

45.	Where separate properties are drained by a common property sewer each to be liable	23
46.	Agreement with Corporation	24

### **PART VII — SEWERAGE CHARGES**

#### *(3) Objections and Appeals*

61.	Objection to entry in records	26
62.	Appeal against decision of Corporation on objection	27
63.	Appeal against refusal to extend time for objection or appeal	27
64.	Objections and appeals against valuations	28
65.	Objection or appeal not to affect liability to pay the charges	28
65A.	Corporation to amend records and assessment consequent on objection or appeal	28

#### *(6) Liability for and Recovery of Charges*

##### ***Division (1) — Generally***

75.	Who is liable for charges	30
76.	Payment by mortgagee	30
77.	Charges apportioned on the occupier, etc., quitting	31
78.	Persons liable to be resorted to in succession	31
79.	How charges may be recovered	32
80.	Records to be evidence	32
81.	Refusal to give name of person liable	32

##### ***Division (2) — Power of Sale***

83.	Land may be sold for arrears of charges, etc., remaining unpaid for 5 years	33
84.	Conditions for exercise of power of sale	34
85.	Contents of notice	35
86.	Fixing of time for sale by auction	36
87.	Advertisement for sale	36
88.	Right to pay charges	37
89.	Power to transfer or convey land	38
90.	Statutory declaration	38

## *Country Towns Sewerage Act 1948*

91.	Functions of Corporation and Registrar relating to transfer or conveyance	39
92.	Combination of all lands of same owner	40
93.	Application of purchase money	40
94.	Receipt a discharge	42
95.	Power to sell after advertisement lapses if sale not made within a year	42
96.	Power to transfer land to Crown	43
97.	Discharge of liability on sale of land	45
98.	Saving provision	45

### **PART IX — BY-LAWS**

102.	Minister may make by-laws	46
------	---------------------------	----

### **PART X — MISCELLANEOUS**

104.	Notices	48
105.	Service of notices when name of owner or occupier unknown	48
106.	Notices binding on persons claiming under owner or occupier	48
108.	Saving of civil remedy	48
109.	Contribution between owner and occupier	49
110.	Obstructing Corporation or officers in performance of duty	49
111.	Penalty for refusing to give up possession of works	49
112.	Offenders may be arrested	50
113.	Summary proceedings for offences and recovery of penalties	50
114.	Corporation may be represented by officer	50
118.	Proof of ownership or occupancy	51
119.	Certificate of chief executive officer of the Corporation evidence of certain facts	52
120.	Power to suspend certain provisions of local government Acts	52

<b>NOTES</b>	<b>54</b>
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Reprinted under the  
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# COUNTRY TOWNS SEWERAGE ACT 1948

**AN ACT to authorize the Construction, Maintenance and  
Control of Sewerage Works in certain areas and  
Districts; and for other purposes.**

*[Long title amended by No. 25 of 1985 s.158.]*

**PART I — PRELIMINARY**

**Short title and commencement**

1. This Act may be cited as the *Country Towns Sewerage Act 1948*, and shall come into operation on a date to be fixed by proclamation<sup>1, 1a, 1b</sup>.

[2. *Repealed by No. 25 of 1985 s.159.*]

**Interpretation**

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

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

“**by-laws**” means by-laws made under or for the purposes of this Act;

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

“**former Authority**” means the Water Authority of Western Australia under the *Water Authority Act 1984* before the commencement of Part 2 of the *Water Agencies Restructure (Transitional and Consequential Provisions) Act 1995*<sup>1</sup>;

“**former Minister**” means a Minister administering this Act before, pursuant to the *Water Authority Act 1984*, the former Authority became charged with the administration of functions under this Act, whether in his capacity as a Minister of the Crown or as (pursuant to section 2 of the *Water Supply, Sewerage, and Drainage Act 1912* as read with this Act) a body corporate;

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

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

**“prescribed”** means prescribed under the *Water Agencies (Powers) Act 1984* for the purposes of this Act or that Act, as the case requires;

**“sewerage charge”**, in relation to land, means a charge made under the *Water Agencies (Powers) Act 1984* in respect of that land relating to the provision of sewerage under 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 for the purposes of this Act in relation to sewerage;

**“water board”** means a water board constituted under the *Water Boards Act 1904*, and includes a local authority constituted as a water board.

(2) Terms not otherwise assigned a meaning under subsection (1) but referred to in section 3 of the *Water Agencies (Powers) Act 1984* as having a meaning assigned for the purposes of a relevant Act have that meaning in and for the purposes of this Act.

[Section 3 amended by No 52 of 1964 s.3; No. 76 of 1978 s.28; No. 63 of 1981 s.4; No. 16 of 1984 s.3; No. 25 of 1985 s.160; No. 110 of 1985 s.70; No. 24 of 1987 s.108; No. 73 of 1995 ss.67 and 73.]

**PART II — SEWERAGE AREAS**

*[Heading amended by No. 52 of 1964 s.4.]*

**Constitution of 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;
- (b) alter or extend the boundaries of a sewerage area;
- (c) unite 2 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.

*[Section 4 inserted by No. 52 of 1964 s.5.]*

*[4A. Repealed by No. 24 of 1987 s.109.]*



**PART III — ADMINISTRATION**

[5. *Repealed by No. 73 of 1995 s.68.*]

[6 — 8. *Repealed by No. 25 of 1985 s.162.*]

**Minister may delegate his powers**

9. The Minister may authorize any officer under this Act to do all and any of the acts, matters, and things which the Minister is hereby authorized or required to do, and every officer so authorized 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 authorized 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**

[10. *Repealed by No. 25 of 1985 s.163.*]

**Corporation may construct works**

11. (1) Subject to this Act, the *Water Agencies (Powers) Act 1984* and, where required by those Acts, to the approval of the Minister, the Corporation may construct and extend works and from time to time may maintain, improve, alter, and repair the same, and for such purposes may exercise, in addition to the powers conferred by those Acts, the powers conferred by the *Public Works Act 1902*<sup>2</sup> save that that Act shall be read and construed as though —

- (a) a reference therein to the Minister administering that Act were a reference to the Corporation; and
- (b) the provisions of the *Water Agencies (Powers) Act 1984* relating to entry onto land and the giving of notice had effect in substitution for the provisions of the *Public Works Act 1902*<sup>2</sup> relating to those matters.

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

[(1a) *repealed*]

[(2) *repealed*]

(3) The Corporation may, at the request of a person or local authority and with the approval of the Governor, acquire from the person or local authority the whole or part of any sewerage works of that person or local authority and all or any property

used in connection with those sewerage works on and subject to such terms and conditions as may be mutually agreed.

(4) The Corporation shall cause notice of the fact of any acquisition made under subsection (3) of this section to be published in the *Government Gazette*.

(5) As from the date of the publication referred to in subsection (4) of this section, the sewerage works and property concerned shall, by force of this subsection and without any conveyance, transfer or assignment, be transferred to and vested in the Corporation and shall be deemed to be works under and for the purposes of this Act and the *Water Agencies (Powers) Act 1984*.

[Section 11 amended by No. 47 of 1967 s.3; No. 49 of 1976 s.2; No. 96 of 1978 s.3; No. 25 of 1985 s.164; No. 73 of 1995 ss.71 and 73.]

[12 — 15, 15A, 16 — 22. Repealed by No. 25 of 1985 s.165.]

### **Altering sewers**

**23.** The Corporation 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 property sewers:

Provided that no person shall, by means of any such alteration, amendment, or enlargement, be deprived of the use and enjoyment of any property sewer which he shall be entitled to use; but the Corporation shall, at the Corporation's own cost and charges, so construct and alter any such property sewer as to render the same as effectual for the purposes for which it was

*Country Towns Sewerage Act 1948*

**s. 23A**

intended as any such property sewer may be at the time of such alteration.

*[Section 23 amended by No. 52 of 1964 s.9; No. 25 of 1985 ss.166 and 167; No. 73 of 1995 ss.71 and 72.]*

**Extension of sewerage works to land not subject to a charge**

**23A.** (1) The owner or occupier of land within a sewerage area not being land in respect of which a sewerage charge has been made may in writing request the Corporation to extend the sewerage works to enable the land or part of the land to be capable of being connected to a sewer of the Corporation.

(2) On receiving a request made under subsection (1) of this section, the Corporation may —

- (a) comply with that request on and subject to such terms and conditions as may be mutually agreed; or
- (b) refuse that request.

*[Section 23A inserted by No. 14 of 1982 s.27; amended by No. 25 of 1985 s.168; No. 27 of 1987 s.110; No. 73 of 1995 s.71.]*

**Corporation to keep sewers cleansed**

**24.** (1) Subject to this section, the Corporation shall cause all sewers which shall at any time be vested in the Corporation 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 Corporation may construct or place, either above or underground, such reservoirs, sluices, engine and fittings as the Corporation may think necessary and may cause all or any of such sewers to communicate with and be emptied

into such places as the Corporation 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.

(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 property sewer, or any portion of a sewer or property sewer, may be in use, to provide and maintain, on request by the Corporation 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 property sewer as lies within the area aforesaid to properly clear, cleanse, flush and empty such sewer and property sewer and the fixtures; for which purposes or any of them the Corporation may give such directions to the water board as the Corporation 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.

*[Section 24 amended by No. 25 of 1985 ss.166 and 169; No. 73 of 1995 s.71.]*

**As to ventilators, etc.**

**25.** The Corporation may cause any ventilating shaft, pipe, or tube for any sewer or property sewer 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 1.8 metres higher than any window or door situate within a distance of 9 metres 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.

*[Section 25 amended by No. 52 of 1964 s.10; No. 94 of 1972 s.4 (as amended by No. 19 of 1973); No. 25 of 1985 s.166; No. 73 of 1995 s.71.]*

**[26.** *Repealed by No. 25 of 1985 s.170.]*

**PART V — THE PROTECTION OF WORKS**

**Duty to keep fittings in repair**

27. The owner and occupier of land connected with any sewer or property sewer 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.

*[Section 27 amended by No. 25 of 1985 s.172.]*

**Fittings not to be connected or disconnected without notice**

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 Corporation, or of an authorized officer in that behalf.

*[Section 28 amended by No. 25 of 1985 s.171; No. 73 of 1995 s.71.]*

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

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

- (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 Corporation 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 33 of this Act.

(3) Any expense incurred by the Corporation 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 Corporation in the same manner in which sewerage charges may be recovered.

*[Section 29 amended by No. 25 of 1985 ss.171 and 172; No. 24 of 1987 s.111; No. 73 of 1995 s.71.]*

### **Protection of fittings**

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

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

*[Section 30 amended by No. 25 of 1985 s.171; No. 73 of 1995 s.71.]*

**s. 31**

**Power to enter on land and fix fittings**

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

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

*[Section 31 amended by No. 25 of 1985 ss.171 and 172;  
No. 73 of 1995 s.71.]*

**Penalty for using unauthorized fittings**

**32.** If any owner or occupier of land connected with a sewer or property sewer does any of the following things for the purpose of discharging sewage in a manner not authorized 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 authorized by the Corporation; or
- (b) alters, misuses, injures, or removes any fixture or authorized fitting, except for the purpose of necessary repair,

he shall forfeit and pay to the Corporation a sum not exceeding \$2 000, and shall, in addition be liable to pay to the Corporation



any damages sustained by the Corporation in respect of any injury done to the Corporation's property.

*[Section 32 amended by No. 113 of 1965 s.4 (1); No. 16 of 1984, s.8; No. 25 of 1985 ss.171, 172 and 173; No. 110 of 1985 s.96; No. 73 of 1995 ss.71 and 72.]*

### **Penalty for not repairing fittings**

**33.** If any owner or occupier of land connected with a sewer or property sewer causes or suffers any pipe, fixture, fitting, or other apparatus used in connection with such sewer or property sewer 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 Corporation, or connected with any such pipe, he shall forfeit and pay to the Corporation a sum not exceeding \$1 000, and \$100 for every day during which such default shall continue.

*[Section 33 amended by No. 113 of 1965 s.4 (1); No. 16 of 1984 s.8; No. 25 of 1985 ss.171 and 172; No. 110 of 1985 s.96; No. 73 of 1995 s.71.]*

### **Penalty for destroying valves, etc.**

**34.** If any person, not being authorized by the Corporation —

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

*Country Towns Sewerage Act 1948*

**s. 34**

he shall forfeit and pay to the Corporation a sum not exceeding \$2 000 and shall, in addition, be liable to pay to the Corporation any damage sustained in respect thereof in repairing the sewer, property sewer, 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.

*[Section 34 amended by No. 113 of 1965 s.4 (1); No. 16 of 1984 s.8; No. 25 of 1985 ss.171 and 172; No. 110 of 1985 s.96; No. 73 of 1995 s.71.]*

**PART VI — CONNECTIONS TO PROPERTY**

*[Heading inserted by No. 25 of 1985 s.174.]*

**Owners and occupiers to make property sewers to public sewers**

**35.** (1) As soon as any sewer, or any part thereof, is completed and ready for use, the Corporation may, by notice in writing, demand that the owner or occupier of any land, whether or not it is of a class of land exempted under the *Water Agencies (Powers) Act 1984* from the payment of sewerage charges, that is situated within the area and capable, in the opinion of the Corporation, of being served by such sewer, shall construct such property sewers, fixtures and fittings from and in connection with such land to communicate with such sewer, as the Corporation may determine.

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

*[Section 35 amended by No. 15 of 1951 s.3; No. 52 of 1964 s.12; No. 25 of 1985 ss.175 and 177; No. 110 of 1985 s.71; No. 24 of 1987 s.112; No. 73 of 1995 ss.71 and 73.]*

**Corporation may make property sewers and attach ventilators in default of compliance with orders**

**36.** (1) The Corporation may, after giving the prescribed notice to the owner or occupier of any land, require such property sewers, fixtures and fittings to be constructed by such owner or occupier within such time as the Corporation 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

*Country Towns Sewerage Act 1948*

**s. 37**

attached to any building, and to be connected with the property sewers.

(2) If the same shall not be constructed within such time, or according to such plans and directions as the Corporation shall deem proper, the Corporation 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 property sewers, fixtures and fittings, and may attach and connect such ventilating shafts, pipes, or tubes as aforesaid.

(3) The Corporation 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 property sewers, fixtures and fittings, or attaching or connecting such ventilating shafts, pipes or tubes, together with interest at such rate, not exceeding 5%, as may be prescribed; and the cost of providing, laying down, constructing and fixing in readiness for use such property sewers, fixtures and fittings shall, as between the owner and occupier of the land, be payable by the owner.

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

*[Section 36 amended by No. 113 of 1965 s.4 (1); No. 25 of 1985 ss.175, 177 and 178; No. 73 of 1995 s.71.]*

**Persons liable for payment for compulsory drainage may agree to pay by deferred payments**

**37.** (1) Where any owner or occupier of any land becomes liable to the Corporation for the expenses of making property sewers, fixtures or fittings, or attaching or constructing ventilating shafts, pipes, or tubes, the Corporation 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 Corporation in relation to such works, in not more than 24 quarterly instalments from the date of the completion of the work.

(2) Interest at 5% 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 Corporation to recover such instalments from the owner.

*[Section 37 amended by No. 25 of 1985 ss.175 and 177;  
No. 73 of 1995 s.71.]*

**[38. Repealed by No. 110 of 1985 s.72.]**

### **Property sewers to be cleansed**

**39.** (1) All property sewers, fixtures and fittings communicating with any sewer shall from time to time be repaired and cleansed, under the inspection or direction of the Corporation, at the expense of the owner or occupier of the land in respect of which the said property sewers shall have been constructed; and in case any such owner or occupier shall neglect to repair or cleanse any such property sewer according to the direction of the Corporation, he shall, upon conviction, for every such offence, forfeit and pay a penalty not exceeding \$1 000.

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

*Country Towns Sewerage Act 1948*

s. 40

shall, as between the owner and occupier, be payable by the occupier.

*[Section 39 amended by No. 113 of 1965 s.4 (1); No. 16 of 1984 s.8; No. 25 of 1985 ss.175, 176 and 177; No. 110 of 1985 s.96; No. 73 of 1995 s.71.]*

**Notice to be given to the Corporation before commencing or continuing sanitary work**

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

(2) The Corporation shall, within 7 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 7 days abovementioned, and before the plan has been returned by the Corporation; or
- (c) fails to follow the directions indorsed on the plan,

he shall be liable to a penalty not exceeding \$1 000, and any work constructed or altered contrary to or not in accordance with

the said directions may be removed by the Corporation, and the expenses of the removal may be recovered by the Corporation from the owner or occupier:

Provided that the above provisions of this section shall not apply in a case where the Corporation declares, in writing that the Corporation 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 Corporation 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 2 clear days notice of the resumption thereof shall be given by the owner or occupier to the Corporation.

(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 \$500.

*[Section 40 amended by No. 113 of 1965 s.4 (1); No. 14 of 1982 s.28; No. 25 of 1985 ss.175, 176 and 179; No. 24 of 1987 s.113; No. 73 of 1995 s.71.]*

### **Inspection by Corporation**

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

*[Section 41 amended by No. 25 of 1985 ss.175 and 176; No. 73 of 1995 s.71.]*

s. 41A

**Notification of building or alteration**

**41A.** (1) Subject to subsection (6), the owner or occupier of any land in a sewerage area in or on which it is proposed to construct or alter any building shall give to the Corporation the prescribed notice thereof and submit to the Corporation a plan of the proposed construction or alteration, together with the prescribed fee for examining the plan and for making or modifying connections to the sewerage services provided by the Corporation.

(2) The Corporation shall, within 7 days after the receipt of the plan and prescribed fee, return a copy of the plan with such written directions in relation to water services as may be thought fit.

(3) If the owner or occupier of any land —

- (a) commences or causes to be commenced the construction or alteration of any building without giving the notice or without furnishing the plan referred to in subsection (1);
- (b) having given the notice and furnished the plan commences or causes to be commenced the construction or alteration of the building before the expiration of the 7 days mentioned in subsection (2) or before the plan has been returned by the Corporation whichever is the earlier; or
- (c) fails to follow the directions given by the Corporation under subsection (2),

he shall be liable to a penalty of \$2 000.

(4) Where any work has been or is being constructed or altered in contravention of subsection (1) or contrary to or not in accordance with the directions given by the Corporation under subsection (2) the Corporation may by notice in writing served on



the owner or occupier, as the case requires, of the land direct him within a specified time and in any specified manner to —

- (a) cease any construction or alteration being carried out;
- (b) remove, pull down, take up or alter the work or part thereof.

(5) If a person on whom a notice is served under subsection (4) fails or refuses to comply with the notice the Corporation may —

- (a) in accordance with the notice, remove, pull down, take up or alter the work or the part which has been constructed or altered; and
- (b) recover the expenses of so doing from the owner or occupier of the land.

(6) This section shall not apply in a case where the Corporation declares, in writing, that it is satisfied that an emergency had arisen which rendered it necessary or desirable that the building should be constructed or altered before the directions of the Corporation could be obtained, and that notice was given, the fee paid and a plan was furnished as soon as practicable.

(7) The fee referred to in subsection (1) may be prescribed by reference to the cost of the construction or alteration of the building concerned as assessed by the Corporation.

*[Section 41A inserted by No. 110 of 1985 s.74;  
amended by No. 73 of 1995 s.71.]*

### **No construction over sewers except by consent**

**42.** (1) No person shall erect, construct or place any building, wall, fence or obstruction in, upon, over, under or within the prescribed proximity to any sewer without the previous consent

*Country Towns Sewerage Act 1948*

s. 43

in writing of the Corporation, and then only upon and subject to such terms and conditions as the Corporation may think fit to impose for the protection of the sewer from interference or damage.

(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, under or within the prescribed proximity to any sewer, so as to interfere with or injuriously affect such sewer in the carrying away of sewerage, and every person who shall obstruct, fill in, close up, or divert any sewer without the previous consent, in writing, of the Corporation, shall, in addition to any other penalty to which he may be liable, forfeit and pay a sum not exceeding \$2 000 for every such offence, and in case of a continuing offence, a further penalty not exceeding \$200 for each day after notice shall have been given by the Corporation to such person.

(3) Subject to subsection (1) of this section, the Corporation 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.

*[Section 42 amended by No. 113 of 1965 s.4 (1); No. 16 of 1984 s.8; No. 25 of 1985 s.175; No. 110 of 1985 ss.75 and 96; No. 73 of 1995 s.71.]*

**Inspection of communicating property sewers**

43. Any person acting under the authority of the Corporation may at all reasonable times enter into or upon any land having a property sewer communicating with the sewers of the Corporation, to examine if there is any communication with any other property sewer 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 \$1 500.

*[Section 43 amended by No. 113 of 1965 s.4 (1); No. 16 of 1984 s.8; No. 25 of 1985 ss.175 and 176; No. 110 of 1985 s.96; No. 73 of 1995 s.71.]*

**Penalty for giving use of property sewer without permission**

44. If any person supplied with a property sewer in pursuance of this Act, or having any property sewer or sewer which may communicate with the sewers of the Corporation, permits any other person not having the authority or consent of the Corporation to use any such property sewer or any branch into the same, every person so offending shall forfeit for every such offence a sum not exceeding \$1 000 over and above the full amount of the damage sustained by the Corporation by the acts or means in respect of which such penalty shall be incurred, and the Corporation shall be at liberty to cut off from the main sewer the property sewer of every such person so offending.

*[Section 44 amended by No. 113 of 1965 s.4 (1); No. 16 of 1984 s.8; No. 25 of 1985 ss.175 and 176; No. 110 of 1985 s.96; No. 73 of 1995 s.71.]*

**Where separate properties are drained by a common property sewer each to be liable**

45. Where several properties in the separate occupation of several persons are served by one common property sewer, such several properties shall be liable to the payment of the same sewerage charges as they would have been liable to if each of such several properties had been connected with the sewer of the Corporation by a separate property sewer, and the costs and charges of repairing and cleaning such common property sewer

*Country Towns Sewerage Act 1948*

**s. 46**

by or under the direction of the Corporation shall be equally borne by and between each of the owners or occupiers of such several properties.

*[Section 45 amended by No. 25 of 1985 ss.175 and 176; No. 110 of 1985 s.76; No. 24 of 1987 s.114; No. 73 of 1995 s.71.]*

**Agreement with Corporation**

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

*[Section 46 amended by No. 25 of 1985 ss.175 and 180; No. 73 of 1995 s.71.]*

*Country Towns Sewerage Act 1948*

**PART VII — SEWERAGE CHARGES**

*[Heading to Part VII inserted by No. 24 of 1987 s.115.]*

*[Heading (1) Repealed by No. 24 of 1987 s.116.]*

**[47.]** *Repealed by No. 24 of 1987 s.116.]*

*[Heading (2) Repealed by No. 24 of 1987 s.116.]*

**[48.]** *Repealed by No. 24 of 1987 s.116.]*

**[49.]** *Repealed by No. 76 of 1978 s.30.]*

**[50.]** *Repealed by No. 24 of 1987 s.116.]*

**[51.]** *Repealed by No. 76 of 1978 s.32.]*

**[52.]** *Repealed by No. 24 of 1987 s.116.]*

**[53 — 55.]** *Repealed by No. 25 of 1985 s.184.]*

**[56.]** *Repealed by No. 25 of 1985 s.185.]*

**[57 — 59.]** *Repealed No. 24 of 1987 s.116.]*

**[60.]** *Repealed by No. 110 of 1985 s.84.]*

(3) *Objections and Appeals*

[*Heading amended by No. 76 of 1978 s.36.*]

**Objection to entry in records**

61. (1) Subject to section 64 of this Act, any person who is dissatisfied with any entry in records kept under section 69A of the *Water Agencies (Powers) Act 1984*, and who is liable to a sewerage charge assessed on the basis of that entry, may serve upon the Corporation written objection to that entry.

(2) An objection to an entry in records mentioned in subsection (1) shall —

- (a) be served within 42 days after the issue of the relevant assessment;
- (b) describe the relevant land so as to identify it;
- (c) identify the entry objected to; and
- (d) set out fully and in detail the grounds of objection.

(3) The Corporation may, for reasonable cause shown by a person entitled to make an objection, extend the time for service of the objection for such period as the Corporation considers reasonable in the circumstances.

(4) The Corporation shall, with all reasonable despatch, consider the objection and may either disallow it or allow it, wholly or in part.

(5) The Corporation shall promptly serve upon the person by whom the objection was made written notice of the Corporation's decision on the objection and a brief statement of the Corporation's reasons for that decision.

(6) If the Corporation decides to allow an objection, wholly or in part, the Corporation shall also advise the person by whom the objection was made of any consequential amendment of the relevant entry; and if the Corporation decides to disallow an objection, wholly or in part, the Corporation shall also advise the person of the time within which and the manner in which an appeal against the decision may be made.

*[Section 61 inserted by No. 76 of 1978 s.37; amended by No. 25 of 1985 ss.182 and 187; No. 110 of 1985 ss.79 and 85; No. 24 of 1987 s.117; No. 73 of 1995 ss. 71, 72 and 73.]*

### **Appeal against decision of Corporation on objection**

**62.** (1) Any person who is dissatisfied with the decision of the Corporation on an objection by that person may, within 42 days (or such further period as the Corporation shall, for reasonable cause shown by the person, allow) after service of notice of the decision of the Corporation, serve on the Corporation a notice requiring that the Corporation treat the objection as an appeal against the relevant entry.

(2) Upon receipt of such notice the Corporation shall promptly refer the objection to a Land Valuation Tribunal under the *Land Valuation Tribunals Act 1978* as an appeal.

*[Section 62 inserted by No. 76 of 1978 s.38; amended by No. 25 of 1985 s.182; No. 110 of 1985 s.86; No. 24 of 1987 s.118; No. 73 of 1995 s.71.]*

### **Appeal against refusal to extend time for objection or appeal**

**63.** (1) Any person who is dissatisfied with a decision of the Corporation to refuse to extend the time for service of an objection or for service of a notice requiring the Corporation to treat an objection as an appeal may serve on the Corporation a

notice requiring the Corporation to refer such decision to a Land Valuation Tribunal under the *Land Valuation Tribunals Act 1978* as an appeal.

(2) Upon receipt of such notice the Corporation shall promptly refer the decision to a Land Valuation Tribunal as an appeal.

*[Section 63 inserted by No. 76 of 1978 s.39; amended by No. 25 of 1985 s.182; No. 110 of 1985 s.79; No. 24 of 1987 s.119; No. 73 of 1995 s.71.]*

### **Objections and appeals against valuations**

**64.** There shall be no objection or appeal in respect of a valuation of land for the purposes of a sewerage charge except in accordance with the *Valuation of Land Act 1978*.

*[Section 64 inserted by No. 76 of 1978 s.40; amended by No. 110 of 1985 s.79; No. 24 of 1987 s.120.]*

### **Objection or appeal not to affect liability to pay the charges**

**65.** The making of an objection or an appeal, whether in respect of an entry in the records or in respect of a valuation of land, shall not affect the liability of a person to pay the charges concerned pending determination of the objection or the appeal.

*[Section 65 inserted by No. 76 of 1978 s.41; amended by No. 110 of 1985 s.79; No. 24 of 1987 s.121.]*

### **Corporation to amend records and assessment consequent on objection or appeal**

**65A.** (1) The Corporation shall make any amendment of an entry in the records which shall be necessary in consequence of



the allowance, wholly or in part, of an objection or an appeal under this Act or under the *Valuation of Land Act 1978*.

(2) The Corporation shall issue a notice of an amended assessment of a sewerage charge when, in consequence of the allowance, wholly or in part, of an objection or appeal under this Act or the *Valuation of Land Act 1978*, amendment of an assessment is necessary.

*[Section 65A inserted by No. 76 of 1978 s.42; amended by No. 25 of 1985 s.182; No. 110 of 1985 s.79; No. 24 of 1987 s.122; No. 73 of 1995 s.71.]*

*[Heading (4) Repealed by No. 24 of 1987 s.123.]*

*[66, 66A, 67 — 70. Repealed by No. 24 of 1987 s.123.]*

*[71. Repealed by No. 25 of 1985 s.194.]*

*[72. Repealed by No. 24 of 1987 s.123.]*

*[72A, 72B. Repealed by No. 24 of 1987 s.123.]*

*[Heading (5) Repealed by No. 24 of 1987 s.123.]*

*[73, 73A, 74. Repealed by No. 24 of 1987 s.123.]*

s. 75

(6) *Liability for and Recovery of Charges*

[*Heading amended by No. 24 of 1987 s.124.*]

***Division (1) — Generally***

**Who is liable for charges**

**75.** (1) The amount of any sewerage charges made in respect of land is payable to the Corporation by the owner of the land but, at the option of the Corporation, may instead in the first instance be recovered from the occupier of the land.

[(2) *repealed*]

(3) Provided that, except where the Crown is the owner, the amount of any sewerage 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 a receipt for any such amount so paid may be tendered to and shall be accepted by the owner in satisfaction, to the extent of the amount specified in the receipt, of any rent due to the owner.

[*Section 75 amended by No. 24 of 1987 s.125; No. 73 of 1995 s.71.*]

**Payment by mortgagee**

**76.** If a mortgagee of land pays the amount of any sewerage charges made in respect of the land, which may include any interest due thereon, the amount so paid shall be added to, and deemed to be part of, the principal moneys advanced by him under the mortgage, and shall be recoverable as such, with interest, accordingly.

[*Section 76 inserted by No. 24 of 1987 s.126.*]

**Charges apportioned on the occupier, etc., quitting**

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

(2) But the sewerage charge in respect of such land is recoverable from, and payment thereof may be enforced against the owner or occupier for the time being as if no change had taken place in the ownership or occupation.

(3) Where any land, that is, as one property, subject to a sewerage charge for a period has been divided between 2 or more owners or occupiers, any such charge 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.

*[Section 77 amended by No. 15 of 1951 s.7; No. 110 of 1985 s.91; No. 24 of 1987 s.127.]*

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

78. An unsatisfied judgment or order of any court for the recovery of any sewerage 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.

*[Section 78 amended by No. 15 of 1951 s.8; No. 24 of 1987 s.128.]*

s. 79

[78A. *Repealed by No. 24 of 1987 s.129.*]

### **How charges may be recovered**

79. The amount payable to the Corporation in respect of any sewerage charges, or interest due thereon, 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.

*[Section 79 amended by No. 15 of 1951 s.9; No. 24 of 1987 s.130; No. 73 of 1995 s.71.]*

### **Records to be evidence**

80. In any proceeding to recover, or consequent on the recovering of, an amount due to the Corporation in respect of sewerage charges or interest thereon, an official record verified by an officer of the Corporation or a copy or extract of any official record certified by an officer of the Corporation to be such a copy or extract, is sufficient evidence of the matters shown in the record and of the obligation of the person proceeded against to pay the amount without any further evidence being required as to any such matter.

*[Section 80 inserted by No. 24 of 1987 s.131; amended by No. 73 of 1995 s.71.]*

### **Refusal to give name of person liable**

81. If, on the request of the Corporation or any officer of the Corporation duly authorized by the Corporation —

- (a) the occupier of any land refuses or wilfully omits to disclose, or wilfully mis-states to the Corporation or

officer making such request, the name of the owner of such land, or of the person receiving or authorized to receive the rents of the same; or

- (b) the person receiving or authorized 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 \$100.

*[Section 81 amended by No. 113 of 1965 s.4 (1); No. 16 of 1984 s.8; No. 25 of 1985 s.182; No. 24 of 1987 s.132; No. 73 of 1995 s.71.]*

[82. *Repealed by No. 24 of 1987 s.133.*]

### ***Division (2) — Power of Sale***

#### **Land may be sold for arrears of charges, etc., remaining unpaid for 5 years**

**83.** (1) When in respect of any land any moneys due for sewerage charges or interest thereon have remained unpaid for the term of 5 years or longer after becoming due and payable, the Corporation 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;

*Country Towns Sewerage Act 1948*

s. 84

- (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 Corporation 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.

*[Section 83 amended by No. 15 of 1951 s.10; No. 25 of 1985 s.182; No. 24 of 1987 s.134; No. 73 of 1995 s.71.]*

**Conditions for exercise of power of sale**

84. (1) The Corporation 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*, 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*, 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 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 Corporation 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.

[Section 84 amended by No. 25 of 1985 s.182; No. 73 of 1995 s.71.]

### Contents of notice

85. Every notice requiring payment shall —

- (a) be in writing and be dated and be signed, or purport to have been signed, by an authorized officer of the Corporation;
- (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

*Country Towns Sewerage Act 1948*

**s. 86**

- (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 3 months from the date of notice at a time appointed by the Corporation.

*[Section 85 amended by No. 25 of 1985 s.199; No. 73 of 1995 s.71.]*

**Fixing of time for sale by auction**

**86.** The Corporation shall appoint a time not less than 3 months and not more than 12 months from the service of the notices required by section 84 of this Act at which the land may be offered for sale by public auction unless the moneys owing be paid.

*[Section 86 amended by No. 25 of 1985 s.182; No. 73 of 1995 s.71.]*

**Advertisement for sale**

- 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 Corporation for not less than 21 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 Corporation regards as reasonable and proper.

(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.

*[Section 87 amended by No. 25 of 1985 s.182; No. 73 of 1995 s.71.]*

### **Right to pay charges**

**88.** Up to the time of the actual sale of any land for non-payment of moneys payable and referred to in section 83 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 Corporation 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 under the hand of a duly authorized officer of the Corporation 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.

*[Section 88 amended by No. 25 of 1985 ss.182 and 200; No. 73 of 1995 s.71.]*

**Power to transfer or convey land**

89. The Corporation, 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*, 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*), 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 but free from other encumbrances and charges.

*[Section 89 amended by No. 25 of 1985 s.182; No. 6 of 1994 s.13; No. 14 of 1995 s.44; No. 73 of 1995 s.71.]*

**Statutory declaration**

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 made by a duly authorized officer of the Corporation on behalf of the authority 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.

[Section 90 amended by No. 25 of 1985 s.201; No. 73 of 1995 s.71.]

**Functions of Corporation and Registrar relating to transfer or conveyance**

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 or on behalf of the Corporation.

(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*, 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 authorize 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 unauthorized or improper or irregular exercise of the power shall, subject to this Act, have his remedy in damages against the Corporation, but

*Country Towns Sewerage Act 1948*

s. 92

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*.

[Section 91 amended by No. 25 of 1985 s.202; No. 73 of 1995 s.71.]

**Combination of all lands of same owner**

**92.** If moneys referred to in section 83 of this Act are owing for the period of 5 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.

**Application of purchase money**

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

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

Secondly — In payment of all moneys owing and referred to in section 83 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 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*, 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 2 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.

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 Corporation.

Sixthly — In payment of the residue of the money within 12 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 99 of the *Trustees Act 1962*, and thereafter the money so paid into Court shall be subject to the provision of that Act so far as the same are applicable; but any

s. 94

petition, claim, suit or action for or in respect of that money shall be presented within 6 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.

*[Section 93 amended by No. 52 of 1964 s.29; No. 25 of 1985 s.182; No. 6 of 1994 s.13; No. 14 of 1995 s.44; No. 73 of 1995 s.69.]*

#### **Receipt a discharge**

**94.** The receipt in writing of the Corporation or a duly authorized officer of the Corporation on behalf of the Corporation shall be 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 83 of this Act remains due in respect of the land sold.

*[Section 94 amended by No. 25 of 1985 s.203; No. 73 of 1995 s.71.]*

#### **Power to sell after advertisement lapses if sale not made within a year**

**95.** If the land is not sold, and, in the case of land under the *Transfer of Land Act 1893*, a transfer thereof is not registered within 12 months of the date of the delivery to the Registrar of Titles of a memorial of the advertisement referred to in section 87 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

96. (1) 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 12 months mentioned in the last preceding section and has been alienated from the Crown in fee simple, the Corporation with the consent of the Governor, shall have power by transfer (where the land is under the *Transfer of Land Act 1893*) and by deed (where the land is not under the *Transfer of Land Act 1893*) 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) *repealed*]

(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 Majesty, and thereupon and notwithstanding the provisions of the *Transfer of Land Act 1893*, 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*, 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*," 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.

*Country Towns Sewerage Act 1948*

s. 96

If the land is not under the *Transfer of Land Act 1893*, the Registrar of Deeds may require the Corporation 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*.

(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 made by a duly authorized officer of the Corporation on behalf of the Corporation 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 authorize the exercise of the power, or that proper notice was not given, or that the power was otherwise improperly or irregularly exercised, but any person damnified by an unauthorized or irregular exercise of the power shall, subject to this Act, have his remedy in damages against the Corporation, 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*.

[Section 96 amended by No. 25 of 1985 s.204; No. 73 of 1995 s.71.]



**Discharge of liability on sale of land**

**97.** Any sale of land by the Corporation 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 Corporation for moneys referred to in section 83 of this Act and then due to the Corporation, or other moneys then due to the Corporation 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 Corporation in respect of the land, whether pursuant to this Act or any other Act.

*[Section 97 amended by No. 25 of 1985 s.182; No. 73 of 1995 s.71.]*

**Saving provision**

**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 Corporation for the recovery of moneys referred to in section 83.

*[Section 98 amended by No. 25 of 1985 s.182; No. 24 of 1987 s.135; No. 73 of 1995 s.71.]*

**[PART VIII. Repealed by No. 25 of 1985 s.205.]**

**[99 — 101. Repealed by No. 25 of 1985 s.205.]**

**PART IX — BY-LAWS**

**Minister may make by-laws**

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

[(1) and (2) *deleted*]

(3) Protecting and preventing and remedying the blockage, leakage, misuse, or contamination of water, waste water, sewers and property sewers.

[(4) — (10) *deleted*]

(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.

(12) Prescribing the quantity of sewage that may be discharged from a specified industry.

(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.

[(14) and (15) *deleted*]

(16) Prohibiting any alteration of or interference with any sewer, pipes, property sewer, fixture or fittings, without the consent of or notice to the Corporation.

[(17) — (19) *deleted*]

(20) Regulating the examination and licensing of persons to perform work in connection with pipes, sewers, property sewers and fittings; the cancelling of such licences and prohibiting any

other than licensed persons from fixing, altering, or repairing pipes, sewers, property sewers, fixtures or fittings connected with the works of the Authority.

[(21) *deleted*]

(22) Prescribing fees or charges for or in respect of licences.

*[Section 102 amended by No. 15 of 1951 s.11; No. 52 of 1964 s.30; No. 15 of 1977 s.3; No. 14 of 1982 s.34; No. 16 of 1984 s.5; No. 25 of 1985 s.206; No. 24 of 1987 s.136; No. 73 of 1995 ss.71 and 73.]*

[102A. *Repealed by No. 24 of 1987 s.137.*]

[103. *Repealed by No. 25 of 1985 s.207.*]

s. 104

**PART X — MISCELLANEOUS**

**Notices**

**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**

**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 Corporation, 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 3 times, at intervals of not less than a week between any 2 publications, in a newspaper usually circulating in the area.

*[Section 105 amended by No. 52 of 1964 s.32; No. 25 of 1985 s.208; No. 73 of 1995 s.71.]*

**Notices binding on persons claiming under owner or occupier**

**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.

*[107. Repealed by No. 25 of 1985 s.209.]*

**Saving of civil remedy**

**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 Corporation or any person aggrieved may be entitled to in any civil proceedings.

*[Section 108 amended by No. 25 of 1985 s.208; No. 73 of 1995 s.71.]*

### **Contribution between owner and occupier**

**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.

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

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

*[Section 110 amended by No. 113 of 1965 s.4 (1); No. 16 of 1984 s.8; No. 25 of 1985 s.210; No. 73 of 1995 s.71.]*

### **Penalty for refusing to give up possession of works**

**111.** Any person having charge of any works, the property of the Corporation, 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

*Country Towns Sewerage Act 1948*

**s. 112**

\$4 000, and to be imprisoned for any period not exceeding 12 months.

*[Section 111 amended by No. 113 of 1965 s.4 (1); No. 16 of 1984 s.8; No. 25 of 1985 s.208; No. 73 of 1995 s.71.]*

**Offenders may be arrested**

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

*[Section 112 amended by No. 25 of 1985 ss.208 and 211; No. 73 of 1995 s.71.]*

**Summary proceedings for offences and recovery of penalties**

**113.** All penalties and forfeitures incurred under this Act, or any by-law made for the purposes of this Act, may be recovered summarily before any 2 or more Justices of the Peace in the manner provided by the *Justices Act 1902*, on the complaint of the Corporation or any officer or servant of the Corporation.

*[Section 113 amended by No. 25 of 1985 ss.208 and 212; No. 73 of 1995 s.71.]*

**Corporation may be represented by officer**

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

*[Section 114 amended by No. 25 of 1985 s.208; No. 73 of 1995 s.71.]*

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

[116, 117. Repealed by No. 25 of 1985 s.213.]

**Proof of ownership or occupancy**

118. (1) In any legal proceedings under the *Water Agencies (Powers) Act 1984* or this Act, in addition to any other method of proof available, —

- (a) evidence that the person proceeded against has been charged 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*, 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 Permanent Head of the Department of Mines, that any person is registered in the Department of Mines as the lessee or holder of any mining lease or other mining tenement; or
  - (v) the Surveyor General, that any plan or reproduction of a plan represents part of the State,

*Country Towns Sewerage Act 1948*

**s. 119**

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

(2) Judicial notice shall be taken of the signatures and appointments to persons for the time being appointed to or acting in and discharging the duties of the offices referred to in the next preceding subsection.

*[Section 118 amended by No. 25 of 1985 s.214; No. 24 of 1987 s.138; No. 73 of 1995 s.73.]*

**Certificate of chief executive officer of the Corporation  
evidence of certain facts**

**119.** A certificate under the hand of the chief executive officer of the Corporation that any specified land, reservoir, dam, property sewer, channel, pipe or other work or portion thereof is included in any waterworks constructed prior or subsequent to the commencement of this Act shall for all purposes and in all courts be sufficient evidence of the fact as stated in the certificate.

*[Section 119 amended by No. 25 of 1985 s.215; No. 73 of 1995 s.70.]*

**Power to suspend certain provisions of local government  
Acts**

**120.** The Governor may, in his discretion, by Order in Council, suspend the operation within any area of the provisions relating to sewerage of any local government Act.

*[Section 120 amended by No. 52 of 1964 s.33.]*



*Country Towns Sewerage Act 1948*

**SCHEDULES**

**[First Schedule.** *Repealed by No. 110 of 1986 s.95.]*

**[Second, Third and Fourth Schedules.** *Repealed by No. 76 of 1978 s.46.]*



## *Country Towns Sewerage Act 1948*

### NOTES

<sup>1.</sup> This reprint is a compilation as at 28 May 1996 of the *Country Towns Sewerage Act 1948* and includes the amendments effected by the other Acts referred to in the following Table<sup>1a, 1b, 3</sup>.

**Table of Acts**

Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Country Towns Sewerage Act 1948</i>	82 of 1948	26 January 1949	8 April 1949 (see <i>Gazette</i> 8 April 1949 p.770)	
<i>Country Towns Sewerage Act Amendment Act 1951</i>	15 of 1951	23 November 1951	23 November 1951	
<i>Limitation Act Amendment Act 1954</i>	73 of 1954	14 January 1955	1 March 1955 (see <i>Gazette</i> 18 February 1955 p.343)	
<i>Country Towns Sewerage Act Amendment Act 1964</i>	52 of 1964	30 November 1964	30 November 1964	
<i>Decimal Currency Act 1965</i>	113 of 1965	21 December 1965	Sections 4 to 9: 14 February 1966 (see section 2 (2)); balance: 21 December 1965	
<i>Country Towns Sewerage Act Amendment Act 1967</i>	47 of 1967	24 November 1967	31 October 1969 (see <i>Gazette</i> 31 October 1969 p.3362)	
<i>Metric Conversion Act 1971</i>	94 of 1972	4 December 1972	The relevant amendments, as set out in the Second Schedule, took effect on 1 May 1974 (see <i>Gazette</i> 26 April 1974 p.1393)	The Second Schedule was inserted by the <i>Metric Conversion Act Amendment Act 1973</i> (No. 19 of 1973)

## *Country Towns Sewerage Act 1948*

Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Country Towns Sewerage Act Amendment Act 1976</i>	49 of 1976	10 September 1976	10 September 1976	
<i>Country Towns Sewerage Act Amendment Act 1977</i>	15 of 1977	11 October 1977	11 October 1977	
<i>Acts Amendment and Repeal (Valuation of Land) Act 1978, Part V</i>	76 of 1978	20 October 1978	1 July 1979 (see <i>Gazette</i> 11 May 1979 p.1211)	
<i>Country Towns Sewerage Act Amendment Act 1978</i>	96 of 1978	17 November 1978	15 December 1978 (see <i>Gazette</i> 15 December 1978 p.4691)	
<i>Acts Amendment (Statutory Designations) and Validation Act 1981, section 4</i>	63 of 1981	13 October 1981	13 October 1981	
<i>Country Towns Sewerage Amendment Act 1981</i>	104 of 1981	4 December 1981	4 December 1981	
<i>Acts Amendment (Country Water and Sewerage) Act 1982, Part IV</i>	14 of 1982	14 May 1982	11 June 1982 (see <i>Gazette</i> 11 June 1982 p.1911)	
<i>Country Towns Sewerage Amendment Act 1984</i>	16 of 1984	31 May 1984	Section 8: 28 June 1984 (see section 2 (2)); balance (except sections 6 and 7): on assent	Sections 6 and 7 repealed by the <i>Acts Amendment and Repeal (Water Authorities) Act 1985</i> (Act No. 25 of 1985), section 216

## *Country Towns Sewerage Act 1948*

Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Acts Amendment and Repeal (Water Authorities) Act 1985, Part VII</i>	25 of 1985	6 May 1985	1 July 1985 (see <i>Gazette</i> 7 June 1985 p.1931)	
<i>Acts Amendment (Water Authorities) Act 1985, Part VI<sup>1a</sup></i>	110 of 1985	17 December 1985	Section 74: 14 July 1987 (see <i>Gazette</i> 14 July 1987 p.2647); section 90: 1 July 1986 (see <i>Gazette</i> 14 March 1986 p.726); section 72: 1 February 1990 (see <i>Gazette</i> 5 January 1990 p.38); sections 73 and 94 (a) to be proclaimed; balance 14 March 1986 (see <i>Gazette</i> 14 March 1986 p.726)	
<i>Acts Amendment (Water Authority Rates and Charges) Act 1987, Part V</i>	24 of 1987	25 June 1987	14 July 1987 (see <i>Gazette</i> 14 July 1987 p.2647)	
<i>R&amp;I Bank Amendment Act 1994, section 13</i>	6 of 1994	11 April 1994	26 April 1994 (see <i>Gazette</i> 26 April 1994 p.1743)	
<i>Bank of Western Australia Act 1995, section 44</i>	14 of 1995	4 July 1995	Operative 1 December 1995 (see section 2 and <i>Gazette</i> 29 November 1995 p.5529)	

*Country Towns Sewerage Act 1948*

Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Water Agencies Restructure (Transitional and Consequential Provisions) Act 1995, Part 4</i>	73 of 1995	27 December 1995	1 January 1996 (see section 2 and <i>Gazette</i> 29 December 1995 p.6291)	

NB Affecting Act —  
No. 3 of 1984 — *Water Agencies (Powers) Act 1984*.

<sup>1a</sup> At the date of this reprint sections 73 and 94(a) of the *Acts Amendment (Water Authorities) Act 1985* (Act No. 110 of 1985) were not in operation.

Section 73 reads as follows —

“ **Section 40 repealed**

**73.** Section 40 of the principal Act is repealed. ”

Section 94 (a) reads as follows —

“ **Section 102 amended**

**94.** Section 102 of the principal Act is amended by —  
(a) deleting paragraphs (20) and (22); ”

<sup>1b</sup> At the date of this reprint Part 17 of the *Sentencing (Consequential Provisions) Act 1995* (Act No. 78 of 1995) was not in operation.

Part 17 of Act No. 78 of 1995 reads as follows —

“ **PART 17 — COUNTRY TOWNS SEWERAGE ACT 1948**

**Section 113 repealed and a section substituted**

**20.** Section 113 of the *Country Towns Sewerage Act 1948* is repealed and the following section is substituted —

“

**Prosecution of offences**

**113.** (1) Proceedings for an offence against this Act may be taken by the Authority or an officer or servant of the Authority.

## *Country Towns Sewerage Act 1948*

(2) Proceedings for an offence against this Act shall be dealt with summarily in a court of summary jurisdiction.

(3) Any penalty or forfeiture incurred under this Act may be recovered in a court of summary jurisdiction on the complaint of the Authority or an officer or servant of the Authority.

”.

<sup>2</sup> Now see *Land Acquisition and Public Works Act 1902*.

<sup>3</sup> Marginal notes in the *Country Towns Sewerage Act 1948* referring to other legislation have been omitted from this reprint.



