
WATER BOARDS.

No. 4 of 1904.

(Affected by Acts Nos. 26 of 1932, 113 of 1965, and
58 of 1966.)

[As amended by Acts:

- No. 19 of 1914, assented to 22nd September, 1914;
- No. 4 of 1919, assented to 3rd January, 1919;
- No. 16 of 1925, assented to 4th November, 1925;
- No. 26 of 1928, assented to 27th December, 1928;
- No. 25 of 1937, assented to 18th January, 1938;
- No. 10 of 1941, assented to 20th October, 1941;
- No. 6 of 1942, assented to 31st October, 1942;
- No. 26 of 1947, assented to 12th November, 1947;
- No. 10 of 1949, assented to 14th September, 1949;
- No. 41 of 1951,¹ assented to 20th December, 1951;
- No. 32 of 1953, assented to 18th December, 1953;
- No. 73 of 1954,² assented to 14th January, 1955;
- No. 32 of 1964, assented to 4th November, 1964;
- No. 54 of 1969, assented to 29th September, 1969;

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

AN ACT to provide for the Construction, Main- tenance, and Management of Works for the Storage and Distribution of Water.

[Assented to 16th January, 1904.]

BE it enacted—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Water Boards Act, 1904-1969*.

Short title.
Amended by
No. 54 of
1969, s. 1.

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

Division of
Act.
Amended by
No. 32 of
1953, s. 2.

PART I.—PRELIMINARY, ss. 1-3.

PART II.—CONSTITUTION OF WATER AREAS AND
WATER BOARDS, ss. 4-35.

¹ Came into operation on 4th April, 1952; see G.G. 4/4/52, p. 799.

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

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PART III.—THE CONSTRUCTION, MAINTENANCE, AND EXTENSION OF WATER WORKS, ss. 36-54.

PART IV.—THE SUPPLY AND DISTRIBUTION OF WATER, ss. 55-65.

PART V.—THE PROTECTION OF WORKS AND FITTINGS, AND THE PREVENTION OF WASTE, ss. 66-76.

PART VI.—WATER RATES AND PAYMENT FOR WATER, ss. 76A-109.

PART VII.—FINANCE, ss. 110-129.

PART VIII.—ACCOUNTS AND AUDIT, ss. 130-140.

PART IX.—BY-LAWS, ss. 141-143.

PART X.—GENERAL PROVISIONS, ss. 144-161.

Interpre-
tation.
Amended by
No. 16 of
1925, s.2.

3. In this Act, unless the context otherwise indicates, the following terms have the meanings set against them respectively, that is to say:—

“Authorised,” when used in respect of fittings, means authorised by the Water Board;

“by-laws,” by-laws made by a Water Board;

“chairman,” the chairman of a Water Board, and includes the mayor of a Municipality and the chairman of a Road Board;¹

“country land” means any holdings within the boundaries of a Water Area, but not within a municipal district, townsite, or suburban area;

“district,” the district of a Local Authority;

“fittings,” a pipe, meter, or other apparatus;

“holding” means any piece or parcel of land held in fee simple or on conditional purchase lease, pastoral lease, or otherwise, under the Land Act, 1898,² or any regulation thereunder or thereby repealed, constituting, owned, or occupied as one property;

“local authority,” the Council of a Municipality or the Board of a Road District;¹

¹ Now see Local Government Act, 1960, s. 4 (3).

² Now Land Act, 1933.

- “member,” a member of a Water Board;
- “minister,” the Minister of the Crown charged for the time being with the administration of this Act;
- “occupier,” the person in actual occupation of land, or if there is no person in actual occupation, the person entitled to possession of the land;
- “owner,” the person other than Her Majesty who for the time being is entitled to receive the rent of 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,” a main, main pipe, stop-cock, water-cock, syphon, plug, branch, or other apparatus used for or in connection with the supply of water;
- “prescribed,” prescribed by this Act or by-laws made under it;
- “rateable land,” all land, with the exception of the following:—Land belonging to the Crown and not used or occupied otherwise than for public purposes; land vested in or in the occupation or under the control of a local authority, and not in the use or occupation of any private person; land used exclusively for religious or charitable purposes; land used exclusively as a public hospital, benevolent asylum, orphanage, public school, public library, miners’ or mechanics’ institute; public reserves and cemeteries; land belonging to any religious body and occupied only as a convent, nunnery, or monastery, or by a religious brotherhood or sisterhood, or as a place of residence of a minister of religion;
- “ratepayer,” a person named in the books of a Water Board as a person liable to pay water rates;
- “reservoir,” a reservoir, dam, tank, cistern, or well;

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- “road,” a road, street, lane, thoroughfare, or other public highway, or a public passage or place, or a public wharf, jetty, or bridge;
- “stream,” a river, creek, brook, spring, aqueduct, conduit, tunnel, sluice, or other running water;
- “water area,” a water area constituted under the provisions of this Act;
- “water board” or “board,” a Water Board constituted under the provisions of this Act;
- “watercourse,” the bed of a river, creek, or other channel in which water flows either ordinarily, intermittently, or occasionally;
- “waterworks” or “works,” any reservoir, well, bore, tank, aqueduct, tunnel, building, engine, pipe, or other work constructed or erected before the passing of this Act, or by this Act authorised to be constructed or erected, with the appurtenances.

PART II.—CONSTITUTION OF WATER AREAS AND
WATER BOARDS.

Water Areas.

4. The Governor may, by Order in Council,—

- (1) Constitute the District of a Local Authority, or the Districts of two or more Local Authorities, or any part or parts of such a District or Districts, a Water Area, under such name as may be directed by the Order in Council;
- (2) Alter or extend the boundaries of a Water Area;
- (3) Unite two or more Water Areas;
- (4) Divide a Water Area and reconstitute the several parts thereof as new Water Areas, with or without the inclusion of part or parts of another Water Area, or other Water Areas, or any adjacent land;
- (5) Include within a Water Area any adjacent land; or

Governor
may
constitute
Water Areas.
Amended by
No. 26 of
1947, s. 2.

- (6) Abolish a Water Area;
- (7) From time to time—
 - (a) divide a water area into sub-areas;
 - (b) define the boundaries of sub-areas;
 - (c) alter the boundaries of sub-areas;
 - (d) abolish sub-areas.*

Apportionment of Assets.

5. Upon the exercise of any of the powers conferred by this Act, the Governor may apportion and adjust between the Water Boards of the respective Water Areas concerned, the assets, liabilities, and rights of the respective Water Boards in such manner as appears just, and every Order in Council so made shall have the same effect as if it were a part of this Act.

Governor may apportion and adjust assets, etc., of Water Boards.

* The following sections are contained in Act No. 26 of 1928.

2. In every case where the Public Works Department has expended or may hereafter expend money in providing a water supply to supply the reasonable requirements of ratepayers within the area to be rated, in agricultural areas, from which works a supply of water is made available to consumers by any means, such works may by Order in Council published in the *Gazette* be declared to be water-works within the meaning of the principal Act, as amended by and subject to this Act, and in such case the following provisions shall apply:—

Water supply in agricultural and other areas by means of tanks, etc. No. 26 of 1928, s. 2.

- (a) A water area may be constituted to comprise all land within a prescribed distance from such waterworks;
- (b) The waterworks shall be deemed to have been duly authorised and constructed under the principal Act;
- (c) The Governor may authorise the Minister to exercise the powers of a Board within such area, including the power to make by-laws;
- (d) An annual rate may be levied by the Minister on all rateable land within such area, and subject to this Act the provisions of Part VI. of the principal Act shall apply.

Provided—

- (i) that where land is included in a rateable area which belongs to an owner who has at his own expense provided a sufficient water supply for his own exclusive use on such land, such fact shall be taken into account when assessing the rate chargeable on such land;
- (ii) that all land within the meaning of the words "rateable land" situated within the prescribed area shall be rateable, notwithstanding that the water is supplied at its source, without the laying down of mains, pipes, or other means of reticulation; and
- (iii) that such rate shall (except in the case of land within a townsite) be levied on an acreage basis, and may amount to but shall not exceed 2½ cents per acre, and may within such limit be differentiated according to a prescribed distance of the rateable land from the source of supply; and
- (iv) that if a townsite is included within the prescribed area, such rate shall be levied within the townsite on the annual value of all rateable land, at not exceeding 3½ cents in the dollar; and
- (v) that if a townsite is situated within the prescribed distance from the source of supply, and other waterworks have been or may hereafter be constructed under the principal Act within such townsite, the townsite shall be excluded from the prescribed area;
- (vi) that land held under any conditional purchase lease granted before or after the commencement of this Act under the Land Act, 1898 shall not be rateable under this Act during the first two years from the commencement of such lease;
- (vii) that land shall not be rateable in respect of the cost of works constructed prior to the 1st day of January, 1925.

3. The Governor may make such regulations as may be necessary or expedient to give effect to this Act.

Regulations. No. 26 of 1928, s. 3.

When by an Order in Council it is directed that any rights, powers, obligations, or authorities previously belonging to or imposed upon a Water Board, with respect to its assets or otherwise, shall devolve upon another Water Board, the such last-named Water Board shall have and may exercise, and shall be liable to, such rights, powers, obligations, and authorities, respectively.

Water Boards.

Water
Boards.

6. For every Water Area there shall be a Water Board constituted under and subject to the provisions of this Act.

The Water Board shall be constituted by the Governor by Order in Council.

The Order in Council shall appoint a day on which it is to take effect.

Modes of
constitution
of Water
Board.

7. The Water Board shall be constituted in such one of the modes following as the Governor from time to time directs:—

- (1) By the appointment of a Local Authority whose District, or a part of whose District, is within the Water Area to be the Water Board;
- (2) By the election of the members of the Water Board;
- (3) By the appointment of the members of the Water Board by the Governor; or
- (4) By the election of some members, and the appointment of others by the Governor.

Number of
members.

8. When members of a Water Board are to be elected or appointed, the number of members and the period for which they are to hold office shall be prescribed, and may from time to time be varied, by the Governor; but so that at least one-third of the members shall go out of office every year.

Provisions
when
members of
Water Board
are elected.

9. When members of a Water Board are to be elected, they shall be elected by the Local Authority or the several Local Authorities having jurisdiction

within any part of the Water Area: And when in that case more Local Authorities than one have jurisdiction within the Water Area, the members of the Water Board shall be elected by the Local Authorities at such times, and in such manner, as the Governor shall from time to time appoint.

The Governor may direct that any Local Authority shall by itself elect a member or members of the Water Board, or that any two or more other Authorities shall conjointly elect a member or members, or that all Local Authorities shall severally elect a member or members, or that each member shall be elected by some two or more Local Authorities conjointly.

10. When the members of a Water Board are to be elected or are to be appointed by the Governor, the following provisions shall have effect:—

- (1) Except as herein otherwise provided, every adult person who is liable to be rated in respect of rateable land within the Water Area is qualified to be a member:
- (2) No person who is concerned or participates in the profit of a contract with the Board, and no person having his affairs under liquidation by arrangement with his creditors, or being an uncertified or undischarged bankrupt, and no person of unsound mind, and no person not qualified as herein required, shall be capable of being or continuing a member:
- (3) A member who for three months consecutively absents himself from the meetings of the Board without the leave of the Board, shall be disqualified from acting as a member, and his seat shall become vacant:
- (4) A person who acts as a member without being duly qualified, or after he has become disqualified, shall be liable to a penalty not exceeding one hundred dollars, and in any proceeding for the recovery of such penalty the burden of proving qualification shall be upon the person against whom the proceeding is taken:

Provisions as to members.
Amended by No. 113 of 1965, s. 8; No. 54 of 1969, s. 2.

Water Boards.

- (5) When more members than one are elected or appointed at the same time, the Local Authority or the Governor, as the case may be, shall then or afterwards declare in what order the members so elected or appointed shall retire:
- (6) A member may resign his office by writing under his hand addressed to the Chairman, and the resignation shall be complete from the time when it is received by the Chairman:
- (7) A member who retires by rotation or resignation shall be eligible for re-election:
- (8) In case of a vacancy arising from any cause whatsoever, except by periodical retirement, a member may be elected or appointed to fill the vacancy, and shall be deemed to have been elected or appointed at the same time as the last holder of the seat:
- (9) A member going out of office by rotation shall retain his office until his successor is elected or appointed, and shall then, unless he is re-elected or re-appointed, go out of office:
- (10) Elections of members shall be held at such time as the Governor prescribes:
- (11) In the event of a Local Authority or two or more Local Authorities directed to elect a member or members, as the case may be, refusing or neglecting to elect a member or members for one month after the time appointed for the election, or after the occurrence of an extraordinary vacancy, the Governor may appoint a qualified person or qualified persons to be a member or members for such Local Authority or Local Authorities:
- (12) A member appointed by the Governor under the provisions of the last preceding paragraph shall hold office for the period for which the member who ought to have been elected would have held office:

- (13) If an extraordinary vacancy occurs within three months before the time when the previous member would have gone out of office, the extraordinary vacancy need not be filled up:
- (14) If a person elected or appointed as a member refuses or neglects to act, or to attend a duly convened meeting of the Board, all lawful acts and proceedings of the Board shall be as valid and effectual as if they had been done or authorised by the full Board.

11. Every Water Board shall be a body corporate with perpetual succession and a common seal, and shall, under such name as is assigned to it by the Governor, be capable in law of suing and being sued, of purchasing, holding, and alienating land, and of doing and suffering all other acts and things which bodies corporate may by law do and suffer.

Water Board to be body corporate.

A change in the mode of constitution of a Water Board shall not affect its continuity as a body corporate.

12. When a person declared elected or appointed to an office under this Act has been elected or appointed unduly or contrary to the provisions of this Act, or a person who is incapable under the provisions of this Act of holding or continuing to hold such office has been elected or appointed to or holds or exercises such office, the Supreme Court or a Judge thereof may, upon the application of a ratepayer, grant a rule or order calling upon that person to show cause why he should not be ousted from office.

Disputed elections or exercise of office.
Amended by No. 113 of 1965, s. 8.

Provided that the applicant shall, before making the application, pay into Court the sum of forty dollars as security for costs, to abide the event of the application.

If, upon the return of the rule or order, it appears to the Court or Judge that the person elected or appointed or holding or exercising the office was elected or appointed unduly or contrary to this Act,

or was at the time of his election or appointment, or while holding or exercising his office, incapable under the provisions of this Act of holding or continuing to hold the office, the Court or Judge may make the rule or order absolute, or, if the matter does not so appear, may discharge the rule or order, and in either case with or without costs.

The person against whom any such rule or order is made absolute shall be deemed thereby to be ousted from office accordingly.

If it appears to the Court or Judge that some other person was duly elected to the office, the Court or Judge may declare such person to have been duly elected, and he shall thereupon be deemed to have been duly elected to the office at the time at which the person ousted was declared to have been elected:

Provided that no such rule or order for ousting any person as having been elected or appointed unduly or contrary to the provisions of this Act shall be granted unless the application is made before the expiration of four months from the declaration of the result of the election at which such person was elected, or the notification of his appointment, as the case may be.

Proceedings of Water Boards.

Application
of Acts
under which
Local
Authorities
appointed.

13. With respect to Local Authorities which may be constituted Water Boards under this Act, the provisions of the Acts under which they are respectively constituted shall be applicable to them and their servants with respect to all things done and proceedings had under this Act, except so far as such provisions are varied by or are inconsistent with the provisions of this Act.

Proceedings.

14. With respect of Water Boards not being Local Authorities, the provisions of sections fifteen to twenty-nine inclusive shall have effect.

First
meeting.

15. The first meeting of the Board shall be held at such time and place as the Governor appoints.

16. The Board shall hold an annual meeting, and such other meetings for the transaction of business as are necessary for properly executing its powers and performing its duties under this Act, and every meeting shall be open to the public. Meetings.

17. At the first meeting of the Board in every year, after the annual election or appointment of new members, or at some adjournment of the meeting, the members present shall choose one of the members to be Chairman of the Board, who shall hold office until the conclusion of the next annual election of members, except as next hereinafter provided. Members to elect Chairman.

If within one month of the time appointed for the election of a Chairman no Chairman is elected, the Governor may appoint one of the members to be Chairman.

If the Chairman resigns his office of Chairman or member, or his office becomes vacated, the Board shall choose a member to be Chairman in his stead, who shall hold office until the period aforesaid.

If the Chairman is not one of the members going out of office at the time of the next annual election or appointment of members he shall hold office until the first meeting of the Board held after that election.

If the Chairman is one of the members going out of office at the time of that election or appointment of members, the Board may appoint a member, who is not one of the members then going out of office to act as Chairman during the interval that elapses between the conclusion of the election or the time of the appointment and the first meeting of the Board after the election or appointment.

18. The Chairman shall preside at every meeting of the Board at which he is present, and if he is absent from a meeting another member shall be chosen as Chairman at and for that meeting. Chairman's duty.

19. Business shall not be transacted at a meeting of the Board unless a majority of the whole number of members for the time being prescribed by the Quorum.

Order in Council constituting the Board are present when the business is transacted.

All powers vested in the Board may be exercised by the majority of the members present at a meeting duly held, and all questions shall be decided by a majority and by open voting.

Upon every question the Chairman shall have a vote, and if the members are equally divided, he shall have a second or casting vote.

At all meetings of the Board, save as herein otherwise provided, all members present shall vote.

If a member refuses to vote, his vote shall be counted for the negative.

Penalty for acting as member where interested. Amended by No. 113 of 1965, s.8.

20. No member shall vote or take part in debate with respect to any matter in which he has directly or indirectly, by himself or his partners, any pecuniary interest, and every member who knowingly offends against the provisions of this section shall for every offence be liable to a penalty not exceeding one hundred dollars.

Adjournment of meeting.

21. The members present at a meeting may from time to time adjourn the meeting.

If a quorum is not present within half-an-hour after the time appointed for a meeting of the Board, the members present or the majority of them, or any one member if only one is present, or the clerk if no member is present, may adjourn the meeting to any time not later than seven days from the date of such adjournment.

Resolutions, how revoked or altered.

22. A resolution of the Board shall not be revoked or altered unless notice of the intention to propose the revocation or alteration is given to each of the members seven days at least before holding the meeting at which the revocation or alteration is to be proposed.

If the number of members present at that meeting is not greater than the number present when the resolution was adopted, the resolution shall not be revoked or altered unless the revocation

or alteration is determined upon by a majority of the whole number of members prescribed by the Order in Council constituting the Board.

23. The Governor may on the petition of a majority of the ratepayers in a Water Area, or otherwise if he thinks fit, suspend, amend, or rescind any resolution or order of the Board, or may prohibit the expenditure of any moneys from the Water Fund upon any work which he deems unnecessary, or which will in his opinion impose undue burdens upon the ratepayers.

On petition or otherwise, Governor may intervene.

24. Notices of any meeting or adjourned meeting of the Board shall be in writing, and shall be delivered at, or sent by post or otherwise to, the usual place of business (if any) within the Water Area, or at or to the place of abode of each of the members, two clear days at least previous to the meeting.

Notices of meetings.

Every such notice shall specify the time of meeting, and, in case of a special meeting, shall specify the object of it.

No business shall be transacted at any special meeting except that which is stated in the notice of the meeting.

25. The Board may from time to time, as it sees fit—

Committees of Board and quorum.

- (1) Appoint committees, either for general or special purposes;
- (2) Delegate to a committee power to do any act or hold any inquiry which it thinks fit;
- (3) Fix the quorum of a committee.

A committee may from time to time appoint one of the members to be Chairman of the committee; and every committee shall report to the Board.

26. A committee may meet from time to time, and may adjourn from place to place, as they think proper, but no business shall be transacted at a meeting of the committee unless the quorum of members (if any) fixed by the Board, and, if no quorum is fixed, two members at the least, are present.

Meetings, Chairman, etc., of committees.

At meetings of a committee, if the Chairman is not present, one of the members present shall be appointed Chairman. All questions shall be determined by a majority of the votes of the members present, including the Chairman; and if the numbers are equally divided, he shall have a second or casting vote.

Minutes of proceedings.

27. The Board, and every committee, shall cause entries of the proceedings of the Board, or of the committee, with the names of the members present at each meeting, and of the names of the members voting upon any question for the decision of which a division is called, to be made in books to be provided for the purpose, which shall be kept by the clerk under the superintendence of the Chairman.

Every such entry shall be signed by the Chairman at the meeting next succeeding the meeting at which the proceeding has taken place.

Every such entry, or a certified copy thereof, sealed with the seal of the Board, and signed by the Chairman, shall, upon the production alone, be received as evidence of the proceedings appearing by such entry to have been taken, without proof of the meeting to which the entry refers having been duly convened or held, or of the persons attending the meeting having been or being members of the Board, or of the committee, or of the signatures of the Chairman, or of the fact of his having been Chairman and all such matters shall be presumed until the contrary is proved.

Copies and extracts from minutes. Amended by No. 113 of 1965, s. 8.

28. Such books shall at all reasonable times be open to the inspection of any member and of any ratepayer of the Water Area, or creditor of the Board, any of whom may, at all reasonable times during office hours, make a copy of, or take extracts from, the books: And every person having the custody of any such book who does not, on the reasonable demand of a member, ratepayer, or creditor permit him to inspect the book or to make or take such copy or extract, shall be liable to a penalty of ten dollars.

29. The Board may, if it thinks fit, grant an allowance to the Chairman from the Water Fund to defray his necessary personal expenses.

Allowance to Chairman.

Delegation of Authority.

30. A Water Board may authorise the Chairman or other officer to do any of the acts, matters, and things which the Water Board is hereby empowered or required to do; and the Chairman or other officer so authorised shall have and exercise all powers hereby conferred on the Water Board; and all acts, matters, and things, when done under such authority, shall be as valid and effectual as if they had been done by the Water Board.

Water Board may delegate powers.

Officers of Water Boards.

31. Every Water Board shall from time to time appoint such officers and servants as may be necessary to assist in the execution of this Act, and may, out of the Water Fund, pay such salaries and allowances to such officers respectively as the Board may determine.

Appointment, removal, etc., and salaries of officers.

32. The Chairman may suspend from office any officer of the Board who, in his opinion, is guilty of misconduct or neglect, and may, if necessary, temporarily appoint another officer in his place: Provided that, at the next meeting of the Board after the suspension, the Chairman shall report the matter to the Board; and if the officer suspended is dismissed by the Board, no salary or wages shall be due or paid to him from the date of his suspension.

Chairman may suspend officers.

Every officer so temporarily appointed shall hold office and receive remuneration (which shall in no case exceed that paid to the officer or servant suspended) only until the Board decides whether the person suspended shall be reinstated, or whether he shall be dismissed and a successor appointed in his stead.

33. Every officer employed by a Water Board who exacts or accepts, on account of anything done by virtue of his office, or in relation to any matters to be done under this Act, any fee or reward, other than

Officers exacting or accepting fees.
Amended by No. 113 of 1965, s. 8.

the salary or allowance by way of salary allowed by the Board, or who is in anywise concerned or interested in any bargain or contract made by the Board, shall be liable to a penalty not exceeding two hundred dollars.

Officers
failing to
render
accounts or
to pay
balance and
deliver over
property of
Board.

34. If an officer of a Water Board fails, when required by the Board so to do,—

- (1) To render accounts of any money received by him for or on behalf of the Board, and of his dealings with it; or
- (2) To produce and deliver up the vouchers and receipts relating to the money in his possession or power; or
- (3) To pay the balance of the money when so required; or
- (4) To deliver up to the Board or to any person appointed by it to receive the same, within five days after being so required, all papers and writings, property, matters and things in his possession or power, relating to the execution of this Act or belonging to the Board,

any two Justices of the Peace may hear and determine the matter in a summary way, and may order the officer to render such accounts, or to deliver up such vouchers and receipts, or to pay over the balance owing by him, or to deliver up all such papers, writings, property, matters, and things; and if such officer neglects or refuses to obey such order, he may, by any Justice of the Peace, be committed to prison for any period not exceeding six months.

Proceedings
after officer
has ceased
to hold
office.

35. Such proceedings against an officer may be had and taken and enforced against him after he has ceased to hold his office: And no such proceedings against an officer shall deprive the Board of any remedy which it might otherwise have against a surety of that officer.

PART III.—THE CONSTRUCTION, MAINTENANCE, AND EXTENSION OF WATERWORKS.

36. (1) The Governor may from time to time by Order in Council—

- (a) place under the temporary management and control of a water board, or absolutely vest in a water board, any waterworks or reservoir begun, constructed, or provided for out of moneys appropriated by Parliament;
- (b) constitute any portion of the State a water reserve or catchment area, and define the boundaries thereof;
- (c) where a water reserve or catchment area constituted under paragraph (b) hereof comprises only lands of the Crown which have not been alienated, place such water reserve or catchment area under the temporary management and control of a water board, or absolutely vest the same in a water board;
- (d) where a water reserve or catchment area constituted under paragraph (b) hereof comprises either in whole or in part land which has been alienated from the Crown, place such water reserve or catchment area under the temporary management and control of a water board.

Water reserves and works may be placed under control of water board. Repealed and re-enacted by No. 10 of 1941, s. 2.

(2) Provided that, where any water reserve or catchment area constituted under subsection (1) of this section contains a source of water supply which is or may be used to meet the requirements both of a water board and of an irrigation board constituted under the Rights in Water and Irrigation Act, 1914-1939,¹ and any question may be likely to arise between such boards concerning the taking of water from such source of water supply, the Governor may by an Order in Council issued under this section place the water reserve or catchment area under the management and control of the water board, or vest the

¹ Now Rights in Water and Irrigation Act, 1914-1964.

same in the water board, subject to the right of the irrigation board to take for its purposes such quantity of water from the said source of water supply as the Minister may from time to time determine.

(3) Any waterworks or reservoir, and any water reserve or catchment area vested in a water board by Order in Council under this section shall, while such Order in Council continues in force, be deemed to be the property of the water board, and may be used accordingly; and any waterworks or reservoir, and any water reserve or catchment area placed under the management and control of a water board by an Order in Council under this section shall, while such Order in Council continues in force, be under the control and management of such water board, and may be used or administered by the water board for the purposes of this Act.

(4) The expression "water reserve or catchment area" in this section means any land over, through, or under which any water flows, runs, or percolates directly or indirectly into any watercourse or reservoir used or erected in connection with any water supply.

Water Boards to have powers of Local Boards of Health. Amended by No. 10 of 1941, s. 3.

37. For preventing the pollution of water within a water reserve or catchment area, which has been placed under the management and control of or vested in a water board, such Water Board shall, within such reserve or area, have all the power and authority of a Local Board of Health, including the power to make and enforce by-laws under an Act relating to public health. All the provisions of the Health Act, 1898,¹ and of all Acts amending the same or incorporated therewith, shall apply to such water reserve and catchment area as if the same were the district of a Local Board of Health.

Penalty for diverting water. Amended by No. 10 of 1941, s. 4; No. 113 of 1965, s. 8.

38. Any person who, without the authority of the Board, diverts water from any stream, watercourse, or source of supply within any water reserve or catchment area, which has been placed under the management and control of or vested in the Board or does any act whereby such stream may be diverted

¹ Now Health Act, 1911.

or diminished in quantity or injured in quality or purity, shall be liable to a penalty not exceeding ten dollars for every day during which such supply of water shall be diverted or diminished by any act done by or by the authority of such person.

39. The whole of the works, and all water which at any time is in any reservoir, pipe, or other part of the works, under the control of the Water Board, and all moneys received by it under the authority of this Act, shall be the property of the Water Board, and shall be used by it for the purposes of this Act.

Works to be the property of Water Board.

40. Subject to the provisions of this Act, a Water Board shall have power to construct waterworks for the purposes of this Act, and shall be deemed a Local Authority within the meaning of the Public Works Act, 1902.

Board may construct waterworks.

41. A Water Board shall, before undertaking the construction of works in the Water Area, except such reticulation works as the Governor may exempt from the operation of this section and the next four following sections do the following acts and things, that is to say:—

Preliminaries to construction. Amended by No. 25 of 1937, s. 2.

- (1) Cause the necessary surveys and levels of lands to be made and taken;
- (2) Cause to be prepared plans, sections, specifications, books of reference, 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 value of the rateable property to be benefited by them, and cause the same, or certified copies thereof, to be deposited in the office of the Minister, and also in the office of the Water Board;
- (3) Cause an advertisement to be published twice at least in the *Government Gazette*, and in one or more newspapers generally circulating in the Water Area, specifying—
 - (a) The description of the proposed works;

- (b) The localities at which they will be constructed;
- (c) The purposes for which they are to be constructed, and the parts of the Water Area which are intended to be supplied with water;
- (d) The times when, and places at which the plans, sections, specifications, and books of reference may be inspected.

Plans, etc.,
open to
inspection.

42. The plans, sections, specifications, books of reference, and estimates so deposited shall be open to inspection by any person interested at all reasonable hours in the daytime, and every such person shall be allowed to make copies of and extracts from the same free of charge.

Minister to
cause plans,
etc., to be
examined.

43. On deposit of the plans, sections, specifications, books of reference, and estimates in the office of the Minister, the Minister shall cause them to be examined and reported on by an engineer, who shall, if required to do so by the Minister, visit the locality of the proposed works before reporting.

Objections.

44. Any Local Authority, corporation, or person interested may object in writing to the construction of the whole or any part of the proposed works.

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

Governor
may
authorise
construction
of works.

45. If, at the expiration of one month after the last publication, the Minister is satisfied—

- (1) That the provisions of this Act have been complied with;
- (2) That the revenue estimated to be derived from the proposed works is sufficient to justify the undertaking;
- (3) That the works if carried out in the manner designed will be for public benefit; and

- (4) 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, books of reference, and estimates to the Governor for approval; and, if they are approved, the Governor may forthwith make an Order empowering the Water Board to undertake the construction of the works, and such Order shall be notified in the *Government Gazette*.

46. Subject to the provisions of this Act, the Water Board may, as the case requires, do or continue any of the following acts, and may execute or complete any of the following works for constructing any works authorised by this Act, or for extending and maintaining them or any works now existing, or for supplying water under this Act, that is to say:—

Powers of Water Board.

- (1) It may, without a previous agreement with the owner or occupier, enter upon any land shown or delineated on the plans and sections, and described in the books of reference deposited as aforesaid, which it may be necessary to enter upon, take, or use for the purposes of the works; and may take levels of the same, and set out such parts thereof as the Water Board or its officer deems necessary, and may dig and break up the soil of such land, and trench and fence-in the same, and remove or use any earth, stones, minerals, trees, and other things taken therefrom;

May enter upon lands and take levels, etc.

- (2) It may, under and subject to the provisions of the Public Works Act, 1902, take any lands which are required for the purposes of the works or of this Act;

May take lands.

- (3) It may construct and maintain in and across any lands, any pipes, ditches, aqueducts, flumes, or other works necessary for conveying water;

May construct and maintain necessary ditches, etc.

May sink wells, make reservoirs, etc.

- (4) It may, from time to time, sink or acquire wells or shafts, erect buildings, pumping stations and pumping machinery, and make, maintain, alter, or discontinue streams, reservoirs, drains, culverts, aqueducts, flumes, or other waterworks, upon the lands authorised to be taken;

May divert streams.

- (5) It may from time to time divert and intercept for that purpose the water from the streams mentioned in the plans of the works, or alter the course of any such stream, and may take any water found under or on the lands taken for constructing the works:

Proviso.

Provided that, in the exercise of the powers conferred by this section, the Water Board shall do as little damage as may be, and shall make to every person interested compensation for any damage actually sustained by him through the exercise of those powers, and such compensation, if not agreed upon between the parties, shall be made in the manner provided in the Public Works Act, 1902.

Compensation.

Power to break road, etc.

47. For the purposes of constructing the works authorised by this Act, or extending or maintaining the same or any works now existing, a Water Board may—

- (1) Open and break up the soil and pavement of a road;
- (2) Lay down and place in, on, or under a road or elsewhere, pipes, conduits, service pipes, and other fittings, and from time to time repair, alter, or remove any of them;
- (3) For the purposes aforesaid remove or use any earth or materials in or under a road; and
- (4) Do any other acts which the Water Board from time to time deems expedient for constructing and maintaining the works.

48. Before a Water Board, not being the Local Authority having jurisdiction in the place in question, opens or breaks up a road, it shall give to that Local Authority notice in writing of the intention to open or break up the same; and the notice shall be given not less than forty-eight hours before beginning the work, except in cases of emergency which, in the opinion of the Water Board, justify the omission to give notice, in which case the notice shall be given as soon as conveniently may be after beginning the work, or after the necessity for it has arisen.

Notices to be served on Local Authority having control before breaking up road or opening drains.

49. In cases in which a notice is required to be given, a road shall not, except in case of emergency, be opened or broken up except under the superintendence of the Local Authority having control thereof or its officer:

Roads not to be broken up except under superintendence of Local Authority.

Provided that if the officer of the Local Authority, after such notice, fails to attend at the time fixed for the opening or breaking up of the road, or if the Local Authority or its officer refuses or neglects to superintend the work, the Water Board may perform the work specified in the notice without such superintendence.

If Local Authority fails to superintend, Board may perform work.

50. When a Water Board opens or breaks up the soil or pavement of a road, it shall,—

Roads, etc. broken up to be reinstated without delay.

- (1) With all convenient speed complete the work for which it is broken up, and fill in the ground, and reinstate and make good the road or pavement so opened or broken up.
- (2) While any such road or pavement continues to be opened or broken up, cause it to be fenced or guarded, and a sufficient light to be kept there at night.

51. (1) Every Local Authority shall, when requested by the Water Board, give particulars of the ascertained levels of any street or road in which it is proposed to lay any main or other pipe.

Local Authorities to give particulars as to levels. Amended by No. 113 of 1965, s. 8.

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

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

Any Local Authority failing to give the notice required by this subsection shall be liable to a penalty not exceeding one hundred dollars.

Works may be constructed by Minister.

52. The Minister may exercise all or any of the powers conferred by this Act on a Water Board in and for the construction of works in any Water Area.

Water Board to be advised of the Minister's intention to construct works.

53. (1) Before authorising any expenditure in the construction of Works in any Water Area the Minister shall cause the Water Board to be advised of his intention, and of the estimated cost of the works, and shall give the Water Board such other information and particulars as he may deem necessary.

(2) The Water Board, upon receipt of such notice, shall report upon the matter, and make such recommendations to the Minister as the circumstances may require.

(3) The Minister shall, after consideration of such recommendations, decide thereon, and his decision shall be final.

Works to be transferred to Water Board on payment of cost.

54. Such works may, on completion, and on payment by the Water Board to the Minister of the cost thereof, be transferred to the Water Board.

PART IV.—THE SUPPLY AND DISTRIBUTION OF WATER.

Supply to rated land.

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

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

Request for supply to rated land. Amended by No. 16 of 1925, s. 7.

Provided that no owner or occupier of rateable country land shall be entitled to be supplied with water or to have a communication pipe laid from the main to the boundary of his land until an agreement has been entered into by him with the Board to pay the cost of such pipe in advance, nor unless all rates due in respect of the land have been paid.

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

Supply to land not rated.

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

58. The Water Board may cause a meter to be attached to any pipe on any land supplied with water under this Act.

The Water Board may supply meter and charge by measure.

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

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

59. Whenever a meter is used—

- (1) The quantity of water shown by the index or register shall be taken *prima facie* to be the quantity of water which has actually passed through the meter and has been supplied; and

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

- (2) A certificate purporting to be signed by an officer of the Water Board stating the quantity so shown shall, in any proceeding in which the quantity of water is in question, be *prima facie* evidence of the quantity of water supplied.

Water may be cut off from unoccupied premises, etc.

60. The Water Board may turn or cut off the water supply—

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

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

Provisions for supplying groups of houses.

61. The Water Board may supply a group of dwelling-houses by means of a stand-pipe or other prescribed fittings, and the Water Board shall be entitled to receive and recover water rates from the owners and occupiers thereof in the same manner as if the supply had been distributed in each of the dwelling-houses in the ordinary manner.

The expense of providing the stand-pipe or other prescribed fittings, and fixing them in readiness for use, and of renewing and repairing them from time to time, shall be borne by the owners or occupiers of such dwelling-houses in such proportions as the Water Board may direct.

61A. (1) The Board may by notice in writing require the owner or occupier of any rateable country land to provide, at his own cost and to the satisfaction of the Board, such tanks for or in connection with the storage of water for his own use, as may, in the opinion of the Board, be necessary to facilitate the equitable distribution of the water available from the main between all consumers having the right to be served thereby.

Owners and occupiers to provide tanks and appliances. Added by No. 16 of 1925, s. 3.

(2) If at the expiration of three months from the service of such notice any owner or occupier shall have failed to make such provision as aforesaid, the Board may by its servants or workmen make such provision and charge the owner or occupier with the cost thereof, and such cost may be recovered from the owner or occupier in the same manner as water rates are recoverable.

(3) In the event of the owner and occupier of land failing to agree between themselves in regard to such provision for the storage of water, or the payment of the cost thereof, such occupier may, if holding a tenancy extending for more than one year from the date of such notice, construct such tanks and other appliances as aforesaid, and may deduct the cost thereof from any rent due or to become due under such tenancy: Provided that such cost so deducted shall not in any case exceed one year's net rent in respect of the land the subject of the tenancy.

62. The owner or occupier of land not situated within the water area may request the Water Board to supply water to such land.

Supply to persons outside water area.

In such case the Water Board may, with the approval of the Minister, comply with such request on such terms as it may think fit, and, if it complies, may construct all necessary works for supplying water to such land:

Provided that any land to which the Water Board supplies water under this section, and the owner and occupier of such land, shall thenceforth be subject to the provisions of this Act as modified by such terms as aforesaid in the same manner as if such land were situated within the Water Area:

Provided further that the nature, size, and description of the works, pipes, and fittings for supplying the land with water shall be entirely in the discretion of the Water Board.

63.* (1) In this section, unless the context requires otherwise—

“Fire Brigades Act” means the *Fire Brigades Act, 1942-1951*;

“Fire Brigades Board” means the Western Australian Fire Brigades Board constituted pursuant to the Fire Brigades Act;

“fire district” means a fire district constituted as such by or pursuant to the provisions of the Fire Brigades Act;

“fire hydrant” means a fire-plug or fixed pillar hydrant;

“proclaimed day” means the day fixed by Proclamation for the coming into operation of the Acts Amendment (Fire Brigades Board and Fire Hydrants) Act, 1951;

“re-instatement” means the filling in of ground opened up and the re-instating and making good of the paving of any street broken up in the course of installing or abolishing a fire hydrant, or keeping a fire hydrant in effective order.

(2) Subject to the provisions of the succeeding subsections of this section, the Water Board shall fix hydrants upon the main or other pipes within the area, or abolish fire hydrants.

(3) The Board may request the Water Board to instal or abolish a fire hydrant at such location in a fire district as the Board specifies.

(4) A local authority may request the Water Board to instal or abolish a fire hydrant at such location in the district of the local authority elsewhere than in a fire district as the local authority specifies.

(5) So soon after receiving the request as is reasonably practicable, the Water Board shall comply with the request.

* In this section references to “the Board” should be read as “the Fire Brigades Board”.

(6) The Water Board shall keep all fire hydrants in the area in effective order.

(7) The Water Board on installing, abolishing, or keeping a fire hydrant in effective order, shall render to the Board, where the fire hydrant is in a fire district, a statement of account of the cost to the Water Board of the labour and materials incurred in doing so, except the cost of re-instatement, and shall render to the local authority in whose district the work is done a statement of account of the cost to the Water Board of the labour and materials incurred in re-instatement.

(8) The Water Board on installing, abolishing or keeping a fire hydrant in effective order, shall render to the local authority, where the fire hydrant is in the district of the local authority but elsewhere than in a fire district, a statement of the cost to the Water Board of the labour and materials in doing so, including that of re-instatement.

(9) In the event of non-payment of the amount shown in a statement of account rendered pursuant to the provisions of the last two preceding sections it shall be recoverable from the Board or the local authority to whom the statement is rendered at the suit of the Water Board in a court of competent jurisdiction as a debt due.

(10) The property in fire hydrants, whether installed before, on, or after the proclaimed day, shall—

if the fire hydrant is in a fire district, whether constituted wholly or partly before, on, or after the proclaimed day, vest in the Board as owner;

if the fire hydrant is in the district of a local authority but elsewhere than in a fire district, vest in the local authority as owner.

(11) The Water Board shall on installing, abolishing or keeping a fire hydrant in effective order deposit the keys of the fire hydrant at such station as shall be specified—

by the Board where the fire hydrant is in a fire district;

by the local authority where the fire hydrant is in the district of the local authority elsewhere than in a fire district.

(12) A person having the possession or control of the keys to a fire hydrant shall at the request of the Water Board deliver them to such person at such time as the Water Board specifies.

64. [*Repealed by No. 41 of 1951, s. 5 (4).*]

Supply of water not compulsory.

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

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

Duty to keep fittings in repair.

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

Fittings not to be connected or disconnected without notice.

67. No person shall—

- (1) Connect a meter, pipe, or other fitting through which water is, or is intended to be supplied; or
- (2) Disconnect a meter, pipe, or other fitting from any other meter, pipe, or other fitting through which water is, or is intended to be supplied,

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

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

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

What quantity of water has been consumed there;

Whether there has been or is any waste, misuse, fouling, or contamination of the water; and

Whether all fittings, with the materials and mode of arrangement thereof, used or intended to be used are in accordance with the by-laws, and in proper order and repair.

(2) When a fitting is not in accordance with the by-laws, or is out of proper order and repair, the officer of the Water Board may repair or remove it, and if necessary substitute others in its stead, or may alter the mode of arrangement, as the case requires.

Any expense incurred by the Water Board in that behalf shall, on demand, be repaid by the owner or occupier of the land, and if not repaid on demand may be recovered by the Water Board in the same manner in which water rates may be recovered.

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

Protection of fittings.

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

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

Power to enter on land and fix fittings.

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. Amended by No. 113 of 1965, s. 8.

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

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

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

Penalty for not repairing fittings. Amended by No. 113 of 1965, s. 8.

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

Penalty for destroying valves, etc. Amended by No. 113 of 1965, s. 8.

73. If any person, not being authorised by the Water Board—

- (1) Wilfully or carelessly breaks, injures, opens or shuts, or wilfully permits to be broken, injured, or opened or shut, any lock, sluice, cock, valve, pipe, or other authorised fitting, or any work belonging to the Water Board;
 - (2) Flushes or draws off the water from any reservoir or other work of the Water Board;
- or

- (3) Does any other wilful act, or wilfully permits to be done any act whereby such water is wasted,

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

74. If any person uses or consumes, or permits to be used or consumed, any water belonging to the Water Board, contrary to the provisions of this Act and the by-laws thereunder, he shall forfeit and pay to the Water Board a sum not exceeding one hundred dollars.

Penalty for taking, etc., water in contravention of this Act. Amended by No. 113 of 1965, s. 8.

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

Fraudulent taking of water.

76. If any person supplied with water by the Water Board—

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

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

the Water Board may (without prejudice to any other remedy against him) cut off any of the pipes by or through which water is supplied by the Water Board to him or for his use, and may discontinue the supply of water to him so long as the cause of

injury remains or is not remedied; but such cutting off shall not affect or take away his liability to payment of rates.

PART VI.—WATER RATES AND PAYMENT FOR WATER.

The Rate Book.

Interpretation.
Added by
No. 32 of
1953, s. 3.

76A. In this Part—

“rating year” where used in relation to a Water Board means the period of twelve months appointed by the Minister under section seventy-six B of this Act as the rating year for the Water Board.

Authority for
Minister to
appoint
rating years.
Added by
No. 32 of
1953, s. 3.

76B. The Minister is authorised, and is regarded as always having been authorised—

- (a) to appoint a period of any twelve consecutive months as the rating year for a Water Board or a class of Water Board;
- (b) to appoint different rating years for different Water Boards; and
- (c) from time to time to alter the rating year appointed for a Water Board, from one period of twelve consecutive months to another.

Adjustment
of rate on
alteration of
rating year.
Added by
No. 32 of
1953, s. 3.

76C. Where after an alteration in the rating year of a Water Board, or the constitution of a Water Board for a newly-constituted Water Area, the making and levying, or adjusting, as the case requires, of a water rate for part only of a rating year becomes necessary, the Water Board may make and levy, or adjust, as the case requires, as the rate for that part, such proportion of the rate for the whole of the rating year as does not exceed the ratio which the number of days in the part of the rating year bears to the number of days in the whole of the rating year.

Rate book.
Amended by
No. 16 of
1925, s. 4;
No. 32 of
364, s. 2.

77. Whenever a Water Board determines to make and levy water rates, it shall cause a rate book to be kept in the form of the First Schedule, and shall enter therein all rateable land in the water area, or any district thereof, with the several particulars

indicated in the said schedule, and in the appropriate column shall state the estimated net annual value of such land.

Provided that the Board may decide that any piece or parcel of land shall be rated separately from any other land of the same ratepayer that is—

- (a) separately owned or occupied; or
- (b) used for the purposes of a separate farm, business, trade or residence; or
- (c) situated in a different or separate locality;

and the same shall be so rated accordingly, and a separate and distinct entry thereof shall be made in the rate book: And provided further, that in respect of holdings to which the Board decides to apply the system of rating on the area, the rate book shall be kept in the form following, that is to say—

Asst. No.	Name of Person Rated	Name of Owner	Description and Situation of Land	Acreage	Rate per Acre	Total Rate exclusive of Fixed Rate	Fixed Annual Rate	Total Amount of Rate Payable

78. Such annual value may, at the option of the Water Board, be either—

- (1) The current value of the Local Authority in whose district the land is situated; or
- (2) The yearly rent at which the land might reasonably be expected to let, free from all usual tenant's rates and taxes, and deducting therefrom the probable annual average cost of insurance and other expenses (if any) necessary to maintain such property in a state to command such rent; or
- (3) An amount not exceeding seven and one half per centum on the capital value of the land in fee simple.

Valuation.
Amended by
No. 113 of
1965, s. 8.

Valuation of
mines. Provided that—

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

Rate book to
be open to
inspection.
Amended by
No. 32 of
1953, s. 4.

79. The rate book shall be made up as early as may be in each rating year, and notice thereof shall forthwith be published in the *Government Gazette* and in at least one newspaper circulating in the water area.

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

Water Board
may inspect
rate books
of Local
Authorities.

80. Any person authorised by the chairman, in writing, may, as of right, at all reasonable times inspect, free of charge, all valuations, lists, and rate books of any Local Authority relating to any land situate in the water area, and may take copies or extracts from them.

Access to be
given.

81. 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 Water Board, and all persons authorised by the chairman, free access to the same.

Penalty for
not
permitting
inspection.
Amended by
No. 113 of
1965, s. 8.

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

Rateable
value.
Repealed
and
re-enacted
by No. 32 of
1953, s. 5.

83. Where a Water Board has made up the rate book for the Water Board's rating year, the net annual value of land from the beginning of the rating year is that shown in the rate book unless

during the rating year the value so shown is altered on appeal mentioned in section eighty-seven, or on re-assessment under section ninety-three A of this Act and where that value has been so altered, the net annual value of the land for the rating year is that as so altered.

84. The Water Board may from time to time amend the rate book by inserting the particulars of any property which may have become rateable or of any rateable property omitted therefrom, or by substituting for the name of any person erroneously inserted as the owner or occupier of any land the name of the true owner or occupier, and by correcting any error that may need rectification, and otherwise amending the same.

Rate book may be amended.

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

Notice of amendment to be given.

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

Water Board may use previous year's rate book.

Appeals.

87. Any person may appeal against any valuation in the rate book, or any alteration thereof or addition thereto; but no appeal shall be allowed when the valuation does not exceed the current valuation of the same land by the Local Authority.

Grounds of appeal against assessment. Amended by No. 16 of 1925. s. 5.

In the case of an appeal concerning any holding to which it is intended to apply the system of rating on the area, the grounds of appeal may include an objection that the area set out in the rate book is in excess of the actual area of the holding.

Appeals,
how made.

88. Appeals shall be made to the Water Board, and from the decision of the Water Board there may be a further appeal to any Local Court having jurisdiction within the Water Area, as hereinafter provided.

Appeals to
the Water
Board.

89. Every appeal to the Water Board shall be by notice setting out the grounds of appeal, in the form or to the effect of the Second Schedule.

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

No appeal shall be entertained unless the appellant deposits with the Water Board the amount of the rates then due and payable in respect of the valuation complained of.

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

Appeals to
the Local
Court from
decisions of
the Water
Board.

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

The notice shall, within ten days after the decision appealed from, be served on the Water Board and the Clerk of the Local Court.

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.

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

(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.

The Making of Rates.

92. The Water Board shall make and levy water rates in respect of all land, whether actually occupied or not, situated wholly or partly within one hundred yards of any main or other pipe from which the Water Board is prepared to supply water, although the land may not be actually supplied with water and, without affecting but in addition to the powers of the Board pursuant to the proviso to section seventy-seven and pursuant to section ninety-two A and subject to section ninety-three of this Act and subject to section two of the Water Boards Amendment Act, 1919 (No. 4 of 1919)¹ the Board is hereby authorised and empowered in so doing, subject to the approval of the Minister to make and levy separate and varying rates in respect of all land in each sub-area.

Land subject to water rate.
Amended by No. 26 of 1947, s. 3.

92A. (1) Notwithstanding anything contained in the last preceding section, the Board may make and levy, in respect of any holding of country land situated wholly or partly within ten chains of any pipe laid down by the Board from which the Board is prepared to supply water, an annual rate not exceeding ten cents for every acre of the holding plus such fixed sum not exceeding ten dollars as the Board may determine; but no such holding shall be rateable so far as regards that part of it which is more than one mile and a half from the pipe: Provided that if pursuant to an application to the Board in writing, signed by two-thirds of the owners and occupiers of holdings in an area defined in the application, the applicants being owners or occupiers or partly owners and partly occupiers of not less

Power to rate country land on the area.
Added by No. 16 of 1925, s. 6.
Amended by No. 32 of 1953, s. 6; No. 113 of 1965, s. 8.

¹ See footnote to s. 93.

than one-half of the total acreage comprised in such area, a pipe is laid down by the Board, the annual rate within such area may exceed the scale prescribed in this section but shall not exceed the limits of a higher scale to be specified in the application.

(2) If a rate of ten cents in the dollar on the unimproved capital value of any holding, as ascertained by the current valuation of the local authority of the district in which the holding is situated, would yield less than ten cents per acre, the Board may, in its discretion, in respect of such holding substitute and levy an annual rate (plus such fixed sum as aforesaid) not exceeding ten cents in the dollar of such unimproved capital value, in lieu of the rate not exceeding ten cents per acre.

(3) No land rated in any rating year under this section shall, in the same rating year, be rateable on the annual value thereof.

Amount of
rate.
Amended by
No. 32 of
1953, s. 7;
No. 113 of
1965, s. 8.

93. A water rate shall not in any one rating year exceed ten cents in the dollar on the annual rateable value of the land rated:

But the Water Board may make and levy a minimum rate of the prescribed amount upon any land the annual rate of which would not exceed two dollars.*

Re-assess-
ment of
annual value
after rate
book made
up.
Added by
No. 32 of
1953, s. 8.

93A. (1) Where a Water Board has made up the rate book for the rating year and it appears to the Water Board

- (a) that because of improvements made to or erected upon land, the net annual value of the land for the rating year has become greater than that shown in the rate book; or
- (b) that because of the destruction, damage or demolition, of improvements previously standing upon the land, the net annual

* It is enacted by Section 2 of Act No. 4 of 1919 as follows:—

2. Notwithstanding the provisions of section ninety-three of the principal Act, a Water Board may, with the approval of the Governor, and within such limit as the Governor may from time to time determine, make and levy in any year a rate not exceeding fifteen cents in the dollar.

value of the land for the rating year has become less than that shown in the rate book;

the Water Board may, during the rating year, cause the net annual value to be re-assessed in respect of the unexpired portion of the rating year, and increase or reduce, as the case requires, the amount payable as rates in respect of the land to the extent to which the re-assessment of the net annual value justifies the increase or reduction.

(2) Where the net annual value shown in the rate book is altered under subsection (1) of this section so as to exceed the current valuation of the same land by the Local Authority, the alteration is one in respect of which an appeal may be made under section eighty-seven of this Act.

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

Manner of making rate.

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

95. Whenever a main pipe 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.

Rate for unexpired portion of year in case of new main or sewer.

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

Gazette evidence of striking of rate.

Payment.

Water rates when payable.

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

Payment for water supplied by measure.

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

Payment by measure when land rated.

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

100. [*Repealed by No. 32 of 1953, s. 9*]

101. [*Repealed by No. 32 of 1953, s. 10*]

Recovery by action or complaint. Amended by No. 32 of 1953, s. 11.

102. The Water Board may, fourteen days after demand thereof, in writing, by the clerk or secretary, or any authorised collector, and notwithstanding any change of occupation or ownership, recover any money due for rates or for water supplied by measure from the occupier or owner for the time being of the land in respect of which the money is due, by complaint before two Justices of the Peace, or by action in any Court of competent jurisdiction.

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

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

Persons liable may be resorted to in succession.

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

Rate books to be evidence.

105. In any proceeding to levy and recover, or consequent on the levying or recovering of any rate under the provisions of this Act, the rate book of the

Water Board, and all entries purporting to be made therein, by the production thereof alone, or a certified copy thereof or extract therefrom signed by the chairman and sealed with the seal of the Water Board, shall be *prima facie* evidence of such rate and of the contents thereof, without any evidence that the notices required by or other requirements of this Act have been given or complied with.

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

Recovery of rates paid by owner from occupier.

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

Recovery of rates paid by occupier from owner.

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

Apportionment of rates between successive owners or occupiers. Amended by No. 16 of 1925, s. 8.

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

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

In case any holding or 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 section, be deemed to be apportionable between the different portions of the holding or land on the basis of the respective values or areas (according to the method of assessment adopted) of such portions.

Land may be sold for arrears of rates, etc., remaining unpaid for three years. Repealed and re-enacted by No. 6 of 1942, s. 2.

108. (1) If money due for rates or water supplied under this Act remains unpaid for the term of three years or longer after the same became due and payable in respect of any land the water board may cause a notice, in the form of the Seventh Schedule to this Act, to be published in the *Government Gazette* and in a newspaper usually circulating in the water area district, three times, at intervals of not less than one week between any two publications.

(2) If the money due and expenses are not paid at or before the expiration of the time specified in such notice the water board may present a petition, in the form of the Tenth Schedule to this Act, to the local court held nearest to the office of the board, stating the imposition of the rate on the said land, the supply of water (if any), and the amount due for the same, the non-payment thereof, and the publication of the notices aforesaid.

(3) The magistrate of the local court, on being satisfied of the proof of such circumstances, shall order the said land, or such part thereof as may be deemed sufficient to satisfy the money due, expenses, and costs to be sold by the bailiff of the local court, or by some other person, to be named in such order, by public auction, and the proceeds of such sale to be paid to the clerk of the local court.

(4) The magistrate may, at the time of making any such order, give any directions that he may deem proper touching the time and place of such sale and the notices to be given thereof, and such directions, unless subsequently varied by the magistrate, shall be adhered to.

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

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

(7) The moneys arising from the sale of the land shall be paid into the local court and shall in priority to every mortgage, encumbrance, lien, caveat, judgment, writ, warrant or other charge, agreement, or process registered against or in any way affecting the land, and notwithstanding the disability of any person or any statute of limitations, be applied by the clerk of the court, under the direction of the magistrate—

Firstly—In payment of the costs and expenses of the bailiff or other person of and incidental to the sale of the land:

Provided that, if the moneys arising from the sale of the land are insufficient to pay such costs and expenses, the same or the balance unpaid, shall be a debt due by the water board to the bailiff or other person aforesaid, and may be recovered by him accordingly.

Secondly—In payment of the costs and expenses of the water board of and incidental to the publication of notices and the petition to the local court for the order for the sale of the land.

Thirdly—In payment of all unpaid rates and taxes at the time of the sale due to or imposed in favour of

the Crown in right of the State or any department or agency of the Government of the State, and also of all moneys unpaid and due to the water board, and also of all unpaid rates due to or imposed by the municipal council or road board and the local authority under the Health Act, 1911-1937,¹ 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 water board, the municipal council or road board and the local health authority *pro rata* with the amounts of their claims respectively.

Fourthly—In payment of any moneys due under any mortgage to The Rural and Industries Bank of Western Australia.

Fifthly—In payment of all vendor's costs and expenses of and in connection with conferring upon the purchaser a clear title to the land.

Sixthly—In or towards the discharge of all or any other mortgages or mortgage or encumbrances or encumbrance proved to the satisfaction of the magistrate to exist over the land, due regard being had to the respective priorities of any such mortgages or encumbrances.

Seventhly—In payment to the person who would but for the proceedings for sale be entitled to the land, or if there are several persons who would be so entitled, then to such persons in the proportions in which they would be respectively so entitled: Provided that, if any person is entitled to an estate in reversion or remainder in the said land, the money may be paid into the Supreme Court under section forty-six of the Trustees Act, 1900.²

Provided that, with the consent of the Governor or of the Minister controlling any department or agency of the Government of the State (as the case may require), the magistrate may order that any

¹ Now Health Act, 1911-1970.

² Now Trustees Act, 1962.

unpaid rates and taxes due to or imposed in favour of the Crown or any such department or agency as aforesaid shall be postponed to or shall rank on an equal footing with the moneys unpaid to the water board in respect of the land sold, and such order shall be given effect to.

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

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

PART VII.—FINANCE.

110. On the constitution of a Water Area the Minister shall, if the Governor so directs, prepare a statement of such waterworks as may have been, before or after the commencement of this Act, constructed out of public money, and shall determine the amount expended upon such works to be charged against the Water Board.

Minister may determine value of works transferred to Water Board.

111. All moneys received by a Water Board from rates, charges, rents, or otherwise under this Act, shall be carried to the account of a fund to be called the "Water Fund," and such fund shall be applied in manner following, that is to say:—

Revenue, how applied.

- (1) In defraying the expenses incurred in the maintenance and management of the works, and the conduct of the business of the Water Board;
- (2) In payment of the interest and contributions to the sinking fund in respect of any loan raised by the Water Board;
- (3) In the payment of any interest or instalments of principal or contributions to the sinking fund due in respect of any money advanced to the Water Board by the Treasurer;
- (4) In the construction, extension, and improvement of works.

Payments to be made out of Water Fund for any authorised purpose.

112. The Water Board may pay out of the Water Fund any sum due under an agreement lawfully made for the purposes of this Act, and any sum recovered against the Water Board by process of law, and any sum which by any order made, or purporting to be made under this Act, the Water Board is directed to pay by way of compensation, damages, costs, or otherwise.

Power to borrow money. Amended by No. 10 of 1949, s. 3.

113. (1) A Water Board may, with the approval of the Governor, borrow money—

- (a) For the construction of works for the storage, distribution, and supply of water;
- (b) For payment of the cost of works constructed by the Minister, or charged to the Water Board under section one hundred and ten;
- (c) To discharge the principal money of any loan to or other indebtedness of the Water Board;
- (d) For any other purpose approved by the Governor.

(2) The Governor may grant an approval under the provisions of the last succeeding subsection—

- (a) unconditionally; or
- (b) subject to such conditions as he may decide to impose, including all or any of the following conditions as to the time within which—
 - (i) the Water Board shall borrow the money;
 - (ii) commence to carry out the purpose for which the approval to borrow the money is sought;
 - (iii) complete the carrying out of that purpose.

(3) Where any conditions are imposed pursuant to the provisions of the last preceding subsection they shall be specified in the Order in Council promulgating the approval.

(4) The Governor may, from time to time, extend any period of time mentioned in any condition.

(5) Where a Water Board does not comply with the requirements of any condition imposed pursuant to the provisions of the last three preceding subsections, then, by virtue of the provisions of this subsection, the Governor's approval shall, unless the Governor orders otherwise, be cancelled and if the whole or any part of the amount has been borrowed, so much of that amount as remains unexpended, shall not be used for any purpose other than such as the Governor in Council may, by further Order direct.

114. No proposition for borrowing money shall be adopted by any Water Board unless a notice thereof has been published in the *Government Gazette* and in a newspaper generally circulating in the Water Area.

Proposition to borrow money to be advertised.

115. Any money borrowed by a Water Board may be raised by the issue of debentures in the form of the Ninth Schedule, or to the effect thereof.

Debentures.

116. Every debenture shall be repayable at a place and time therein named, such time being not longer than thirty years from the issue thereof.

Repayment of debentures.

117. The interest on every debenture shall be payable half-yearly or otherwise, and separate coupons for each sum so payable, bearing the same number as the debenture, shall be annexed thereto.

Payment of interest.

118. Debentures and coupons respectively shall be transferable by delivery, and payment to any person in possession of any such debenture or coupon of the sum named therein shall discharge the Water Board of all liability in respect of such debenture or coupon.

Debentures and coupons transferable by delivery.

119. All debentures, and the interest thereon, shall be a charge upon the works constructed by or vested in the Water Board under this Act, and upon the revenues of the Water Board.

Debentures and interest a charge on property and revenues of Water Board.

120. Before raising any loan the Water Board shall make provision for the repayment thereof by the creation of a sinking fund; and for such purposes

Sinking fund to be created. Amended by No. 10 of 1941, s. 5

may, with the approval of the Governor, permanently appropriate any part of the revenues of the Water Board.

Provided that it shall be lawful for the board, and it shall be deemed to have been lawful for a board, on the raising of any loan and the issue of debentures to provide for the repayment of the principal money with interest by half-yearly or other periodical instalments in lieu of the formation of a sinking fund, in which case such sum as may be necessary for the repayment of such instalments shall be set aside from time to time and applied to that purpose, and sections one hundred and fifteen to one hundred and nineteen, both inclusive, shall have effect, with such adaptations as are necessary, subject to this proviso.

Investment
of sinking
fund.

121. All moneys so appropriated as a sinking fund, and all interest accruing thereon, shall be invested by the Treasurer in the joint names of the Treasurer and the Water Board, in such securities as the Treasurer may think fit.

Accumulated
sinking fund
to be
applied in
payment of
loan.

122. The accumulated sinking fund shall be applied in payment of the principal of the loan when the same becomes payable, or may be applied from time to time in the redemption of debentures issued.

Powers of
receiver.

123. If at any time the principal or interest due upon any debentures is in arrear, a Receiver for the debenture holders, appointed by the Supreme Court, may take possession of any works the property of the Water Board, and may levy and enforce water rates and charges, and for that purpose may exercise all the powers of a Water Board for the recovery of such rates and charges.

Overdraft.
Added by No.
10 of 1941,
s. 6.

123A. Notwithstanding anything to the contrary contained elsewhere in this Act, the board, pending the collection of any rates or the receipt of any subsidies in aid of rates or grants payable by the Government, may, for the purpose of commencing, carrying on, or completing works, obtain advances from any bank by overdraft of the current account,

but no such overdraft shall at any time exceed one-third of the ordinary revenue of the board for the year then last preceding:

Provided that the bank making such advances shall not be concerned to inquire whether the same have been obtained for the purposes set forth in this section, nor be required to see to the application of such advances.

124. The Treasurer may, from time to time, advance to the Water Board of any Water Area, out of any moneys appropriated by Parliament for that purpose, such sums of money on loan as are required for the construction and extension of works therein.

Treasurer may advance moneys.

All such sums shall bear interest at such rate and shall be repaid in such instalments as may be agreed upon between the Treasurer and the Water Board.

125. All moneys advanced by the Treasurer to a Water Board shall, by virtue of this Act, be charged upon all works constructed by or vested in the Water Board and on all the revenues thereof.

Such advances to be a charge on the works and revenue.

126. If a Water Board, being a Local Authority, in any year fails to pay the full amount of all such interest and instalments, the Treasurer may withhold so much of any subsidy payable to the Local Authority as is sufficient to provide for such interest and instalments.

Subsidy may be withheld.

127. If at any time the payments due to the Treasurer by a Water Board are in arrear, the Treasurer may take possession of any works the property of the Water Board, and may levy and enforce the water rates and charges, and for that purpose shall have and may exercise all the powers of the Water Board for the recovery of such rates and charges.

Treasurer may levy and collect rates and charges.

128. If in any Water Area such payments continue in arrear through the refusal or neglect of the Water Board to levy and collect any rate or other moneys after being required to do so by the Treasurer as aforesaid, the Governor may, by Order

Governor may appoint Commissioners.

in Council, suspend the functions of the Water Board, and may appoint a Commissioner for the management of the business which ought to be performed by the Water Board in the Water Area.

Powers of
Commissioners.

129. Such Commissioner may forthwith take possession of all works the property of the Water Board, and may, subject to the control of the Minister, exercise within the Water Area all the powers of the Water Board under the provisions of this Act, and may receive such remuneration as to the Governor may seem fit:

Provided that, at any subsequent time, the Governor may, by like Order in Council, supersede such Commissioner, and restore the functions of the Water Board under the provisions of this Act.

PART VIII.—ACCOUNTS AND AUDIT.

Books of Account and Inspection.

Books of
account and
inspection
by persons
interested.
Amended by
No. 113 of
1965, s. 8.

130. Every Water Board shall cause books to be provided, and true and regular accounts to be entered therein of all sums of money received and paid on account of the business of the Water Area, and of the several purposes for which such sums of money are received and paid; and such books shall, at all reasonable times, be open to the inspection of any person appointed by the Minister and of any ratepayer of the Water Area or creditor of the Water Board, any of whom may, at all reasonable times during office hours, and without payment of any fee, make a copy thereof or take extracts therefrom.

Every person having the custody of any such book who does not, on the reasonable demand of any such member, ratepayer, or creditor, permit him to inspect such book, or to make or take such copy or extract, shall be liable to a penalty not exceeding ten dollars.

Yearly
balance and
audit.

131. Every Water Board shall, at the end of every financial year, cause its accounts to be balanced, and shall cause such accounts to be audited by competent auditors as soon as conveniently may be. The

accounts so balanced shall be produced to the auditors with all vouchers in support of the same, and all books, papers, and writings in the custody of the Water Board relating thereto.

If the auditors, after due inquiry, are satisfied that all moneys received have been duly accounted for, and that all payments charged have been duly authorised and made, they shall sign the accounts in token of their allowance thereof, but if they disapprove of any part of the accounts, they may disallow any parts of the accounts so disapproved of.

132. The yearly accounts of the Water Board, so balanced and audited as aforesaid, and either allowed or disallowed by the auditors, together with any written objections made by ratepayers or creditors, shall be produced at the first ordinary meeting of the Water Board thereafter, or at some adjournment thereof, at which meeting any person who has made any such objection may be heard in support of it, and the accounts shall be then finally examined and settled by the Water Board, and if the same are found correct, they shall be allowed by the Water Board and certified accordingly under the hand of the Chairman of such meeting.

Examination and settlement of accounts by Water Board.

After such accounts have been so allowed and signed by such Chairman, and also by the auditors as hereinbefore provided, the same shall (except in the case of an audit by a special auditor or special auditors appointed by the Governor) be final as against all persons whomsoever.

133. As soon as possible after the accounts are so allowed and certified, the Water Board shall publish in the *Government Gazette*, and in newspapers circulating in the Water Area, a true statement of the receipts and expenditure of the Water Board under this Act for the financial year then last past, and such statement shall be signed by the Chairman and certified as correct by the auditors.

Certified statement of receipts and expenditure to be published.

Special Audit.

134. The Governor may, from time to time, appoint a special auditor or special auditors to examine the accounts of a Water Board, and the

Audit by authority of Governor in Council.

Chairman and clerk shall, on being requested so to do, produce and lay before the auditor or auditors so appointed all books and accounts of the Water Board for such period, and all vouchers in support of the same, and all books, papers, and writings in the power of the Water Board relating thereto.

Seven days' notice in writing shall be given to the Chairman and clerk of any such intended examination.

Report of
special
auditors.

135. The special auditor or special auditors shall forthwith, after the examination of the accounts of the Water Board, report to the Minister the result thereof, and it appears to the Minister that any money forming part of the Water Fund has been wilfully or corruptly misapplied to purposes to which it was not lawfully applicable, or that any member has wilfully, or by culpable negligence, misapplied or connived at or concurred in the misapplication of such money, he shall certify accordingly; and the Governor may, by Order in Council to be published in the *Government Gazette* within three months from the date of such certificate, wholly or in part confirm or disallow the same.

Special
auditors to
hear
explanation.

136. The special auditor or special auditors, before certifying as aforesaid, shall, by public notice or otherwise as may seem to him or them reasonable, appoint a time and place for hearing such explanations as may be offered by or on behalf of the Water Board or any member thereof.

Proceedings
on
confirmation
of certificate.

137. Every such Order of confirmation of a certificate shall be conclusive evidence in all Courts, and for all purposes whatsoever, of the fact of the misapplication of the moneys therein mentioned, of the amount so misapplied, and of the liability of the member or members named in such Order as having so misapplied the same or connived at the misapplication thereof to pay the same.

Any sum of money mentioned in any such Order of confirmation as having been so misapplied may be recovered in any Court of competent jurisdiction, together with full costs of suit, from any one or

more of the members mentioned in such Order as liable to pay the same, at the suit of the Water Board, or at the suit of any ratepayer, or at the suit of any of the creditors of the Water Board; and any sum or sums so recovered shall be paid into the Water Fund.

138. The Governor may direct that the costs and expenses of and connected with any such examination shall be paid, either wholly or partly, out of the Water Fund, and may direct that the amount thereof shall be deducted from and retained out of any moneys payable to the Water Board by the Treasurer.

Costs of special audit.

Powers of Special Auditors.

139. For the purpose of any such examination the special auditor or special auditors may take evidence upon oath (which oath every special auditor is hereby empowered to administer), and may by summons, under his or their or either of their hands, require all such persons as he or they may think fit to appear personally before him or them, at a time and place to be fixed in and by the summons, and to produce to him or them all such books and papers as may appear necessary for the examination:

General powers of special auditors.

And any person so required who, without just excuse, neglects or refuses to comply with the tenor of the summons, or who, having appeared before the special auditor or special auditors, refuses without just excuse to be examined on oath or affirmation concerning the premises, or to take such oath or affirmation, or, having taken such oath or affirmation, to answer such questions concerning the premises as are put to him, shall and may be dealt with by the special auditor or special auditors in the same manner in all respects in which by any Act in force for the time being relating to Justices persons so refusing or neglecting in cases in which Justices have summary jurisdiction may be dealt with.

Examination of Accounts by Auditor General.

Auditor
General may
examine
books
annually.

140. The Auditor General, or such officer of his staff as he from time to time directs, may, at such times as he may think fit, examine the books and accounts of every Water Board, and the Auditor General shall report thereupon to the Treasurer.

The Treasurer may, if he thinks fit, require such books and accounts to be kept by a Water Board in such form and manner as may be prescribed by the Auditor General.

PART IX.—BY-LAWS.

Water Board
may make
By-laws.
Amended by
No. 32 of
1953, s. 12.

141. A Water Board may, subject to the provisions of this Act, make by-laws with respect to the following matters, that is to say:—

Regulating
business.

(1) The general conduct of its business and proceedings.

Duties of
officers.

(2) The control, supervision, guidance, and duties of, and the granting of long service leave to, its officers and servants.

Water
reserves.

(3) For the prevention of the pollution of water within any water reserve or catchment area.

Managing
works.

(4) The due management and use of the water and other property of the Water Board and of any water under their jurisdiction or authority and the construction, maintenance, extension, and management of the works.

Construc-
tion and use
of works.

(5) The construction, maintenance, repair, management, and use of the works and other property of the Water Board.

Protecting
works.

(6) Protecting the water, and the works, pipes, and fittings from trespass and injury.

Preventing
water and
waste, etc.

(7) Preventing and remedying the waste, misuse, undue consumption, fouling, or contamination of water contained in or supplied from the works or otherwise under the control of the Water Board.

- | | | |
|------|---|--|
| (8) | Making, levying, and collecting rates and fixing a minimum rate to be paid in respect of land under a prescribed value. | Rates. |
| (9) | Prescribing the quantity of water which a consumer may take in respect of any rates paid for any given period. | Quantity of water. |
| (10) | Prescribing scales of charges for water supplied by measure, and the minimum quantity of water to be charged for, and the rent for the use of meters. | Scale of charges for water supplied by measure. |
| (11) | Specifying the purposes for which, and the persons or classes of persons to whom, water may be supplied under agreement, and the general and special terms and conditions upon which water shall be so supplied. | Specifying purposes. |
| (12) | The quantity of water which a consumer may take or consume for any specified purposes; and the price to be paid for water supplied for any specified purposes. | Prescribing quantity for agricultural, etc., purposes. |
| (13) | Fixing the level beyond which water supplied from the works may not be allowed to rise at any particular place within the Water Area. | Fixing levels of water. |
| (14) | Compelling persons using water supplied by the Water Board to keep their pipes and fittings in proper repair. | Repair of fittings. |
| (15) | Prohibiting any alteration of or interference with any meter, pipes, or fittings, without the consent of or notice to the Water Board; and prohibiting the sale by any person to whom water is supplied by the Water Board of water so supplied, except with the authority in writing of the Water Board. | Prohibiting alteration of fittings. |
| (16) | Enabling the Water Board to repair such pipes or fittings so as to prevent waste of water, and to recover the cost of such repairs from the owner or occupier of the land. | Enabling Water Board to repair fittings at cost of consumer. |

- Arrangement of fittings. (17) Prohibiting any mode of arrangement, and the use of any fittings which may, in the opinion of the Water Board, cause or tend to cause waste, misuse, undue consumption, fouling, or contamination of the water.
- Inspection. (18) The inspection of all pipes, fittings, and meters.
- Licensing plumbers. (19) Licensing competent persons to perform work in connection with meters, pipes, and fittings; the cancelling of such licenses, and prohibiting any other than licensed persons from fixing, altering, or repairing meters, pipes, or fittings, connected with the works of the Water Board.
- Fees. (20) Prescribing fees or charges for or in respect of licenses.
- Forms. (21) Prescribing forms to be used for the purposes of this Act, and modifying any of the forms contained in the Schedules.
- Generally. (22) And for any other purposes relating to the administration of this Act and the exercise of the powers vested in the Water Board.

Penalties for breach of by-laws. Amended by No. 113 of 1965, s. 8.

142. Every by-law—

- (1) May impose a penalty not exceeding forty dollars for the 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 been given by or on behalf of the Water Board to the offender; and
- (2) May provide that, in addition to the penalty, any expense incurred by the Water Board in consequence of the breach of such by-law shall be paid by the person committing such breach.

143. [*Repealed by No. 32 of 1953, s. 13*]

PART X.—GENERAL PROVISIONS.

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

Notices.

145. (1) Any notice or demand required by this Act to be given to or made upon any person may be served—

Notices and demands, how served.

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

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

When deemed to have been given.

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

When name of owner or occupier unknown.

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

Service on corporations.

146. 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 binding on persons claiming under owner or occupier.

Notices may be authenticated by signature of chairman without seal.

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

Service on Water Board.

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

Saving of civil remedy.

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

Recovery of value of water misused, etc.

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

Obstructing Water Board or officers in performance of duty.
Amended by No. 113 of 1965, s. 8.

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

Penalty for refusing to give up possession of works.
Amended by No. 113 of 1965, s. 8.

152. Any person having charge of any works, the property of a Water Board, 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.

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

Offender may be arrested.

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

Summary proceedings for offences and recovery of penalties.

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

Application of penalties.

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

Water Board may be represented by secretary or other officer.

157. [*Repealed by No. 73 of 1954, Second Schedule.*]

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

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

159. All lands and works vested in or under the management and control of the Water Board shall be exempt from any rate, tax, or imposition which any Local Authority might, but for this section, lawfully levy and impose.

Property of Water Board not to be taxed.

Proof of
ownership or
occupancy.

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

- (1) Evidence that the person proceeded against is rated as owner or occupier of any land; or
- (2) Evidence by the certificate, in writing, of—
 - (a) The Registrar of Deeds, or his deputy, that any person appears from any memorial of registration of any deed, conveyance, or other instrument to be the owner of any land; or
 - (b) The Registrar of Titles, or any assistant or deputy registrar, that any person's name appears in any register book kept under the Transfer of Land Act, 1893, as proprietor of any land; or
 - (c) The Under Secretary for Lands or the Under Secretary for Mines, that any person is registered in the Department of Lands or of Mines as the occupier or lessee of any land—

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

Powers of
Water Board
may be
exercised by
Minister for
Works or for
Mines.

161. The Governor may authorise the Minister for Works or the Minister for Mines to exercise, within a Water Area, all or any of the powers conferred by this Act on a Water Board:

- (1) Until the constitution of a Board; or
- (2) With respect to any works constructed before or after the commencement of this Act, until such works are transferred to the Board.

FIRST SCHEDULE.

Section 77.

WATER BOARDS ACT, 1904-1969.

.....Water Area.

RATE BOOK.

Surname of person rated	Other Names of person rated	Trade or Occupation	Name of Owner	Description and situation of rateable property	Net Annual value	Amount of rate

SECOND SCHEDULE.

Section 89.

WATER BOARDS ACT, 1904-1964.

.....Water Area.

To the Chairman of the

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

Section 89.

THIRD SCHEDULE.

WATER BOARDS ACT, 1904-1969.

.....Water Area.

Notice is hereby given that the Water Board 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.

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

Dated the _____ day of _____, 19____. Chairman.

FOURTH SCHEDULE.

Section 90.

WATER BOARDS ACT, 1904-1969.

.....Water Area.

NOTICE OF APPEAL FROM THE WATER BOARD TO THE LOCAL COURT AGAINST VALUATION.

To the Chairman of _____ and the Clerk of the Local Court, _____ holden at _____

Take notice that it is my intention to appeal from the decision of the Water Board in the matter of the valuation of the undermentioned land, to the Local Court holden at _____ on the _____ day of _____, 19____.

Description of Land:

.....
.....

Grounds of Appeal:

.....
.....

Dated the _____ day of _____, 19____.

(Signed) _____ Name
Address

FIFTH SCHEDULE.

[Repealed by No. 32 of 1953, s. 14.]

SIXTH SCHEDULE.

[Repealed by No. 32 of 1953, s. 14.]

SEVENTH SCHEDULE.

WATER BOARDS ACT, 1904-1969.

Section 103.
Amended by
No. 113 of
1965, s. 8.

.....Water Area.

NOTICE.

By virtue of the provisions of the Water Boards Act, 1904-1969, notice is hereby given to all parties interested that the sum of \$ _____ has now been due and unpaid for twelve months in respect of rates made and assessed [or for water supplied] by the _____ being the Water Board for the _____ Water Area, upon [or to] [*here describe the land*], and payment of the said sum is now required; and the owner of the said property, and all other persons interested therein, are hereby warned that in default of payment of the said sum of \$ _____, together with all expenses caused by the non-payment of the same, on or before the _____ day of _____, 19____, to [*the person appointed by the Water Board to receive the same*], a petition will be presented to the Local Court held nearest to the office of the water board praying the said Court to order the said property, or a competent part thereof, to be sold, pursuant to the provisions of the said Act.

Dated this _____ day of _____, 19____.

(Signed)

Chairman.

TENTH SCHEDULE.

Section 108 (2). Added by No. 6 of 1942, s. 5.

WATER BOARDS ACT, 1904-1969.

PETITION FOR AN ORDER FOR SALE OF LAND ON WHICH MONEYS FOR RATES OR WATER SUPPLIED ARE IN ARREARS.

In the Local Court } In the matter of the Water Boards
at } Act, 1904-1969;
and
In the matter of an application by
the
Water Board for an order for sale
of land for unpaid rates (or water
supply charges)

THE Petition of the said Water Board showeth to the said Local Court as follows:—

1. Certain rates (or certain water supply charges duly made on assessments by the petitioner in respect of the land described in the Schedule hereto, which said lands are situate in the Water Area, have been unpaid for three years or longer since they became due and payable, and there is now due to the petitioner for and in respect of such rates (or water supply charges) on each piece or parcel of the said land, the sum indicated in respect of such piece or parcel in the said Schedule.

2. The petitioner has duly published the notices required by and in accordance with subsection (1) of section 108 of the Water Boards Act, 1904-1969.

3. The petitioner therefore prays that the said land may be ordered to be sold pursuant to section 108 of the Water Boards Act, 1904-1969.

SCHEDULE.

Table with 5 columns: No., Description of Land, Reference to Volume and Folio of Title to land if under the Transfer of Land Act, 1893-1969 (Vol., Folio), Name and Address of rateable Owner or Occupier of Land, Rates (or Water supply charges) due to the Water Board and in arrears.

The Common Seal of the Water Board was hereunto affixed the day of 19, in the presence of:—

